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MONTANA LEGISLATIVE HISTORY

Chapter 586 19 93

Bill H _____ S 424 Original bill & history ✓ C

H. Committee on TAXATION			S. Committee on TAXATION		
Hearing Date(s)	4/7	X C	Hearing Date(s)	3/19	X C
& Exec. ACTION		C	Exec. ACTION	3/25	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 421 INTRODUCED BY FORRESTER

GUARANTEE INCREASE IN SHERIFFS' RETIREMENT FUND BY VIDEO GAMBLING TAX

2/18	INTRODUCED		
2/18	REFERRED TO TAXATION		
2/18	FIRST READING		
2/18	FISCAL NOTE REQUESTED		
2/23	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		
3/10	HEARING		
3/10	TABLED IN COMMITTEE		

SB 422 INTRODUCED BY CHRISTIAENS, ET AL.

REQUIRE COST APPROACH FOR VALUING RESIDENTIAL IMPROVEMENTS FOR PROPERTY TAX

2/18	INTRODUCED		
2/18	REFERRED TO TAXATION		
2/18	FIRST READING		
2/18	FISCAL NOTE REQUESTED		
3/01	FISCAL NOTE RECEIVED		
3/02	FISCAL NOTE PRINTED		
3/11	HEARING		
3/15	TABLED IN COMMITTEE		

SB 423 INTRODUCED BY LYNCH, ET AL.

LIMIT NURSING HOME CHARGES FOR PRIVATE PAY RESIDENTS

2/18	INTRODUCED		
2/18	REFERRED TO BUSINESS & INDUSTRY		
2/18	FIRST READING		
2/18	FISCAL NOTE REQUESTED		
2/19	HEARING		
2/19	TABLED IN COMMITTEE		
2/22	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		

SB 424 INTRODUCED BY BLAYLOCK

REQUIRE LAND BOARD TO ATTAIN FULL MARKET VALUE ON SCHOOL TRUST LAND LEASES

BY REQUEST OF SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

2/19	INTRODUCED		
2/19	REFERRED TO TAXATION		
2/19	FISCAL NOTE REQUESTED		
2/19	FIRST READING		
3/01	FISCAL NOTE RECEIVED		
3/03	FISCAL NOTE PRINTED		
3/19	HEARING		
3/26	REVISED FISCAL NOTE REQUESTED		
3/27	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/29	2ND READING DO PASS AS AMENDED MOTION FAILED	23	26
3/29	MOTION FAILED TO INDEFINITELY POSTPONE ON 2ND READING	24	25
3/29	ON MOTION RULES SUSPENDED TO PLACE ON 2ND READING THIS DAY WITH AMENDMENTS	49	0
3/29	2ND READING PASSED AS AMENDED	34	15
3/30	3RD READING PASSED	32	18

TRANSMITTED TO HOUSE

3/31	REFERRED TO TAXATION		
3/31	FIRST READING		
4/03	REVISED FISCAL NOTE RECEIVED		
4/05	REVISED FISCAL NOTE PRINTED		
4/07	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCURRED AS AMENDED	88	11
4/14	3RD READING CONCURRED	90	10

RETURNED TO SENATE WITH AMENDMENTS

4/16	2ND READING AMENDMENTS CONCURRED	49	0
4/16	REVISED FISCAL NOTE RECEIVED		
4/17	3RD READING AMENDMENTS CONCURRED	39	0
4/19	REVISED FISCAL NOTE PRINTED		
4/23	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		

CHAPTER NUMBER 586
EFFECTIVE DATE: 07/01/93

SB 425 INTRODUCED BY B. BROWN, ET AL.

REVISE JUDICIAL SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL AMENDMENTS

BY REQUEST OF SECRETARY OF STATE

2/19	INTRODUCED		
2/19	REFERRED TO JUDICIARY		
2/19	FIRST READING		
2/20	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED		
2/23	2ND READING PASSED	49	0
2/24	3RD READING PASSED	48	0

TRANSMITTED TO HOUSE

3/01	REFERRED TO JUDICIARY		
3/01	FIRST READING		
3/23	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED		
3/30	2ND READING CONCURRED	90	7
4/01	3RD READING CONCURRED	92	7

RETURNED TO SENATE

4/06	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/13	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		

CHAPTER NUMBER 377
EFFECTIVE DATE: 04/15/93

SB 426 INTRODUCED BY KENNEDY

REVISE SPECIAL IMPROVEMENT DISTRICT AND RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND LAWS

BY REQUEST OF SENATE LOCAL GOVERNMENT COMMITTEE

2/19	FISCAL NOTE REQUESTED		
2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/20	FIRST READING		
3/01	FISCAL NOTE RECEIVED		
3/02	FISCAL NOTE PRINTED		
3/17	HEARING		

SENATE BILL NO. 424

INTRODUCED BY BLAYLOCK
BY REQUEST OF THE SENATE EDUCATION AND
CULTURAL RESOURCES COMMITTEE

IN THE SENATE

FEBRUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 25, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 26, 1993	PRINTING REPORT.
MARCH 29, 1993	SECOND READING, DO NOT PASS.
	ON MOTION, RETURNED TO 2ND READING THIS DAY WITH AMENDMENTS.
	SECOND READING, DO PASS AS AMENDED.
MARCH 30, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 32; NOES, 18.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 31, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 6, 1993	ON MOTION, RULES SUSPENDED TO ALLOW 2ND AND 3RD READING SAME LEGISLATIVE DAY.
APRIL 8, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 14, 1993	SECOND READING, CONCURRED IN AS AMENDED.

THIRD READING, CONCURRED IN.
AYES, 90; NOES, 10.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 16, 1993 — SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 17, 1993 — THIRD READING, AMENDMENTS CONCURRED IN.

APRIL 21, 1993 — SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 424

INTRODUCED BY Blaylock

BY REQUEST OF THE SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF LAND COMMISSIONERS TO ATTAIN FULL MARKET VALUE FOR LEASES ON STATE SCHOOL TRUST LANDS; ELIMINATING THE RECREATIONAL USE LICENSE ADMINISTRATIVE SURCHARGE; REQUIRING THE VALUE OF IMPROVEMENTS TO BE BASED ON ACTUAL COSTS; AMENDING SECTIONS 77-1-208, 77-1-802, 77-1-808, 77-6-202, 77-6-205, 77-6-302, 77-6-305, 77-6-306, 77-6-502, AND 77-6-508, MCA; REPEALING SECTION 77-6-507, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-1-208, MCA, is amended to read:

"**77-1-208. Cabin site licenses and leases -- method of establishing value.** (1) The board shall set the annual fee based on full market value for each cabin site ~~subject to a license or lease in effect on January 1, 1988,~~ and for each licensee or lessee who at any time wishes to continue or assign ~~his~~ the license or lease. The fee must ~~be 3.5% of the~~ attain full market value based on appraisal of the cabin site value as determined by the department of revenue ~~or $150, whichever is greater~~. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111. An appeal of a cabin site value determined by the department of revenue ~~shall~~ must be conducted pursuant to Title 15, chapter 2.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302 through 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board.

(4) ~~Nothing in this~~ This section may not be construed as a delegation of rulemaking authority to the board."

Section 2. Section 77-1-802, MCA, is amended to read:

SB 424 INTRODUCED BILL

"77-1-802. Recreational use license -- fee. (1) The fee for a recreational use license ~~is $5. The fee is~~ must attain full market value based upon:

~~(a)~~ a ~~$3~~ $25 minimum charge as the value of 1 year of recreational use of state lands; ~~and~~

~~(b) a $2 surcharge for the administrative costs of providing recreational access to state lands and the maintenance of a state lands recreational use account pursuant to 77-1-808.~~

(2) Money received by the department from the sale of recreational use licenses ~~must be credited as follows:~~

~~(a) proceeds collected under subsection (1)~~(a) must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts; ~~and~~

~~(b) proceeds collected under the surcharge of subsection (1)~~(b), ~~less 50 cents for each license to be returned as a commission to license dealers, must be deposited in the state lands recreational use account established by 77-1-808 for use by the department in the management of state lands open to general recreational use.~~

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the

department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

Section 3. Section 77-1-808, MCA, is amended to read:

"77-1-808. State lands recreational use account. (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

~~(a) all revenue received from the recreational use license established by 77-1-802;~~

~~(b)~~(a) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and

~~(c)~~(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the state lands recreational use account is statutorily appropriated, as provided in 17-7-502, and must be used by the department for the following purposes:

(a) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b) assistance in weed control management necessary as a result of recreational use of state lands;

(c) protection of the resource value of the trust assets; and

(d) administration and management for the implementation of recreational use of state lands."

Section 4. Section 77-6-202, MCA, is amended to read:

"**77-6-202. Lease by competitive bidding** -- full market value required. When the department receives an application to lease an unleased tract, it shall advertise for bids on the tract. The tract ~~shall~~ must be leased to the highest bidder unless the board determines that the bid is not in the state's best interest for the reasons set forth in 77-6-205(2). The board may not accept a bid that is below full market value. If the high bid is rejected, the board shall set forth the reasons for the rejection in writing. The lease ~~shall~~ must then be issued, at a rental to be determined by the board, to the first bidder willing to pay the board determined rental whose name is selected through a random selection process from all bidders on the tract."

Section 5. Section 77-6-205, MCA, is amended to read:

"**77-6-205. Renewal leases.** (1) A lessee of state land classed as agricultural, grazing, town lot, city lot, or land valuable for commercial development who has paid all rentals due ~~from--him--to~~ the state or who has voluntarily terminated a lease under 77-6-116 is entitled to have ~~his~~ the lease renewed for a period not to exceed the maximum

lease period provided in 77-6-109 at any time within 30 days prior to its expiration or within 30 days following voluntary termination if no other applications for lease of the land have been received 30 days prior to the expiration of ~~his~~ the lease or within 30 days following voluntary termination. The renewal must be at the full market rental rate ~~provided--by--law~~ established by the board for the renewal period and subject to any other conditions at the time of the renewal imposed by law as terms of the lease. Except as provided in 77-6-212, if other applications have been received, the holder of the lease has the preference right to lease the land covered by ~~his~~ the former lease by meeting the highest bid made by any other applicant. Applications for lease of lands in this section must be given preference in the order of their receipt at the office of the department.

(2) The board shall accept the highest bid. If the lessee exercises the preference right and believes the bid to be excessive, ~~he~~ the lessee may request an administrative hearing. The request must contain a statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the

rental from the amount bid if the lessee shows that the bid is not in the best interest of the state because it is above community standards for a lease of the land, would cause damage to the tract, or would impair its long-term productivity. If the board reduces the bid, it shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the reduction. It is the duty of the board to secure the best lessees possible, so that the state may receive the maximum return possible with the least injury occurring to the land.

(3) A renewal lease may be canceled pursuant to 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a violation by the lessee that occurred during the previous lease term but no more than 3 years prior to the date on which the notice of cancellation required by 77-6-211 is issued. Cancellation procedures instituted but not completed before renewal are applicable to the renewal lease.

(4) A renewal lease may be voluntarily terminated pursuant to 77-6-116."

Section 6. Section 77-6-302, MCA, is amended to read:

"**77-6-302. Compensation for improvements -- actual costs.** (1) When another person becomes the lessee of ~~such~~ the lands, ~~he~~ the person shall pay to the former lessee the reasonable value of these improvements at the time the new lessee takes possession. The reasonable value may not exceed

the actual costs of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value ~~shall~~ must be ascertained and fixed as provided in 77-6-306."

Section 7. Section 77-6-305, MCA, is amended to read:

"**77-6-305. Settlement regarding improvements prerequisite to issuance of new lease.** Before a lease is issued to the new lessee, ~~he~~ the lessee shall show that ~~he has paid~~ the former lessee has been paid the value of the improvements ~~as agreed upon by them~~ pursuant to 77-6-302 or as ~~fixed and~~ determined under 77-6-306 ~~or that he has offered to pay the value of the improvements as so fixed and determined~~ or that the former lessee elects to remove the improvements."

Section 8. Section 77-6-306, MCA, is amended to read:

"**77-6-306. Arbitrators to fix value of improvements.** (1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed thereon on state lands desires to sell these improvements to the new lessee and they are unable to agree on the value thereof of the improvements pursuant to 77-6-302, the value ~~shall~~ must be ascertained and fixed by three arbitrators, one of whom ~~shall be~~ is appointed by the owner of the improvements, one

by the new lessee, and the third by the two arbitrators so appointed. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the commissioner has the same duties and powers as if appointed by one of the parties. The value of the improvements ~~shall~~ must be ascertained and fixed ~~as--this--part--provides~~ pursuant to 77-6-302.

(2) The reasonable compensation that the arbitrators may fix for their services ~~shall~~ must be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements ~~so~~ ascertained and fixed is binding on both parties~~;--however,--if~~. If either party is dissatisfied with the valuation ~~so-fixed~~, ~~he~~ the party may within 10 days appeal from the decision to the department, which shall examine the records pertaining to the costs of the improvements, and~~,~~ except as provided in subsection (4), its decision ~~shall--be~~ is final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in ~~such~~ the proportion as, in its judgment, justice may demand.

(4) If either party is dissatisfied with the valuation fixed by the department, ~~he~~ the party may within 30 days after receipt of the department's decision petition the

district court in the county in which the majority of the state land is located or the district court of Lewis and Clark County for judicial review of the decision."

Section 9. Section 77-6-502, MCA, is amended to read:

"**77-6-502. Grazing leases.** (1) The rental rate for leasing all state grazing lands ~~shall be~~ must attain full market value based upon the appraised animal-unit-month carrying capacity of the land ~~as-provided-in-77-6-507~~.

(2) If the ~~legislature~~ board raises the rentals for state grazing lands during the term of any leases of grazing land ~~which~~ that are not issued as a result of competitive bidding, the lessee shall, for the years after the increase becomes effective, pay the increased rental, and the terms of grazing leases ~~shall so~~ must provide for the increase."

Section 10. Section 77-6-508, MCA, is amended to read:

"**77-6-508. Effect of competitive bidding.** Whenever competitive bidding ~~shall--establish~~ establishes a rental price higher than the rental price established by the ~~above formula~~ board, the board in leasing ~~such~~ the lands shall incorporate in ~~said~~ the lease ~~such~~ conservation requirements as are ~~deemed~~ considered necessary for the protection of ~~such~~ the grass or forage crops."

NEW SECTION. **Section 11.** Repealer. Section 77-6-507, MCA, is repealed.

NEW SECTION. **Section 12.** Applicability. [This act]

applies to leases entered into or renewed on or after [the effective date of this act].

NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0424, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring the Board of Land Commissioners to attain full market value for leases of state school trust lands; eliminating the recreational use license administrative surcharge; requiring the value of improvements to be based on actual costs.

ASSUMPTIONS:

Department of State Lands (DSL):

1. One-tenth of the agricultural and grazing leases are renewed each year. Therefore, increased rentals on those types of leases will take ten years to be in effect on all leases. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the minimum rate increases will occur in 1994.
2. The rentals are reviewed and adjusted on 1/5 of the cabinsite leases each year. Therefore, it would take five years for all cabinsite rentals to come under increased rentals. All 1993 lease renewals will be completed by the passage of this act. Therefore, the first lease renewals affected by the rental increases will occur in 1994.
3. Increased cost of the State Lands Recreational Use License would go into effect beginning March 1, 1994.
4. Rental rates for outfitting licenses could be placed into effect on most of these licenses beginning January 1, 1994.
5. The FY92 revenues received from grazing, agricultural, cabinsites, recreational use licenses, and outfitting licenses represent average revenues for these leases/licenses under the currently existing rental rates.
6. The land board will raise rentals to the lower end of the rates recommended by the study, "Economic Analysis of the Values of Surface Uses of State Lands", (Bioeconomics, Inc., February, 1993). Those rates used to estimate future revenues are as follows:
   a. Grazing - $7.60/AUM
   b. Agricultural crop share - 33%
   c. Cabinsite % of appraised value - 6%
   d. Recreational Use License - $25
   e. Outfitting license - $.66/acre
7. The DSL will continue to be required to administer the recreational use program without state special revenues from the sale of recreational use licenses. During FY93 there was $43,290 deposited in the state lands recreational use account for damage compensation, noxious weed control and administration of the program. It is anticipated that most of these funds will be expended for the purposes intended on an annual basis. These funds will need to replaced in order to continue the recreational use program as it now exists.
8. All grazing lease agreements in effect will continue to require the calculation of the minimum AUM rate in accordance with 77-6-507 MCA, until lease expiration (through 2002). Therefore, there will be two minimum rental rates in existence for state leases through 2002. The existence of two minimum rates will cause some confusion regarding lease rates both from the DSL and lessee perspective.

(continued on next page)

Dave Lewis 2-24-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 3/3/93
CHET BLAYLOCK, PRIMARY SPONSOR DATE

FISCAL IMPACT:	FY '94			FY '95		
Revenue:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
1. Grazing rentals	4,341,524	4,617,702	276,178	4,341,524	4,968,659	627,135
2. Agricultural rentals	8,700,000	8,934,231	234,231	8,700,000	9,168,461	468,461
3. Cabinsite rentals	291,490	333,131	41,641	291,490	374,773	83,283
4. Recreation Use rentals	144,300	721,500	577,200	144,300	721,500	577,200
5. Outfitting License rentals	55,000	330,000	275,000	55,000	330,000	275,000
Total	13,532,314	14,936,564	1,404,250	13,532,314	15,563,393	2,031,079

Expenditures:
DSL expenditures ($43,290) for the recreational use program will need to be funded from the general fund. These expenditures include: contracting with the Department of Fish, Wildlife and Parks for license sales; contracting for production of the licenses; mailing costs; damage compensation costs; weed control costs; personal services; communication and advertising costs; sign production and distribution costs; and legal fees in prosecuting violations of the statutes and administrative rules for recreational use.

Revenues:
Revenues from grazing, agricultural, cabinsites, recreational use and outfitting will increase each year for the next ten years until all leases have been renewed and the new minimum rentals assessed.

Net Impact:
Increased annual revenues to the school equalization account and other distributable trust accounts.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
License agents will no longer be compensated for their sales of State Lands Recreational Use Licenses. These license agent commissions amounted to $14,430 in FY93.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
Revenues from grazing, agricultural, cabinsites, recreational use and outfitting will increase each year for the next ten years until all leases have been renewed and the new rentals assessed. The total increase in revenues from the FY92 level to FY2003 level is estimated to be $6,814,910.

TECHNICAL NOTES:
1. The assumptions used to generate the revenues projected above may be faulty to some degree. The revenues are based on continuing numbers of leases and licenses at the minimum rental rates assumed. However, the following instances may occur:
   a. Some leases/licenses may be dropped by existing lessees/licensees due to unwillingness to pay higher rentals.
   b. New leases may not be issued on some of these former leased tracts due to no applicants.
   c. State Lands Recreational Use License sales may decrease due to unwillingness to pay the higher cost of these licenses.
   d. The land board may increase or decrease the minimum AUM rate above or below $7.60/AUM.

(continued on next page)

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 19, 1993, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: Sen. Spook Stang (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 424, SB 429
Executive Action: Committee Bill Request

EXECUTIVE ACTION:

MOTION/VOTE:

Senator Harp moved that this Committee REQUEST A COMMITTEE BILL as drafted in Exhibit No. 1 attached to these minutes. The motion CARRIED UNANIMOUSLY on oral vote.

HEARING ON SB 429

Opening Statement by Sponsor:

Senator Delwyn Gage, Senate District 5, presented SB 429, which is an act requiring the Department of Natural Resources and

2. The rental rate of $.66/acre for outfitting licenses is probably in excess of what is full market value because it is based on outfitting fees paid on private lands where the outfitter has exclusive hunting privileges. The outfitting licenses on state lands are not exclusive to the outfitter; the licensed general recreationist is still allowed to recreate on the state tract even if an outfitting license has been issued.
3. 77-6-507, MCA, must remain in effect for existing grazing leases until expiration of those leases (through 2002) in order to maintain those minimum lease rentals. Repealing 77-6-507, MCA, leaves no methodology for the board to determine minimum lease rentals. It might be appropriate to leave 77-6-507, MCA, in effect and direct the board to adjust the multiplication factor (currently 6) to increase or decrease the minimum annual AUM rate. The AUM rate would still then be tied to the price of beef cattle sold in the state as published by agricultural statistics.

Closing by Sponsor:

Senator Gage reminded the committee that these projects can only be used where there is no identifiable party or the identifiable party is not financially responsible enough to be able to take care of the problems that the projects cover. Senator Gage said the Board would not be asking for funds where there is an identifiable party who has the financial ability to take care of the problems. If the person refused to correct the problems, the Board would go after them in Court to recover the funds.

HEARING ON SB 424

Opening Statement by Sponsor:

Senator Chet Blaylock, Senate District #43, presented SB 424, which would require the Board of Land Commissioners (Board) to attain full market value for leases on state school trust lands. Mr. Blaylock said the study asked for two years ago was recently completed. This $250,000 study (Duffield Study) of school lands was headed by John Duffield, Professor of Economic Studies at the University of Montana. Senator Blaylock said SB 424 would remove the authority for grazing and crop-share arrangements on state school lands from the State Legislature and deposit that authority with the Board of Land Commissioners. The make-up of the Board is the Governor, as Chairman, the Attorney General, the Secretary of State, the State Superintendent of Public Instruction, and the State Auditor. These are the top five state-elected officials of the State of Montana.

Senator Blaylock said the present system with the Legislature being the imposing authority for the state school lands grazing and crop-share arrangements is not working. The last time the base figure for grazing rates was raised was in 1977.

Senator Blaylock said a great number of people who lease state school lands are honest, decent people, who are good stewards of the land.

Originally, state grazing permits were set up on a 10-year bid process. Senator Blaylock said this system is not working because some lands are entirely enclosed by private land, and the only access to the state land is by crossing private land. Those state lands are bid at the minimum rate, which is $4.17 per animal unit month (AUM). This figure is arrived at by taking 6 times the beef price in the previous year. The Duffield Study shows the state is receiving an average of $4.24, 7 cents above the minimum rate. Private grazing rates average $11 to $12.50 per AUM. Included in the private grazing rates, the landlord may provide fencing, or water resources, salt, etc. The Duffield Study took all of this into account and determined the state should be receiving approximately $7.50 per animal unit month.

Senator Blaylock said a fair comparison is the BIA-leased land on the Fort Peck Reservation, where the land is comparable to much of the state school lands. Depending on whether the landlord buys everything, they are getting $11.50 per AUM. If the landlord is not buying anything, they are getting approximately $7.50 per AUM.

Senator Blaylock said these state school lands do not belong to the people who have rented them; the lands belong to the school children of the State of Montana. This was set up in the 1889 Montana Enabling Act, and reaffirmed in the Montana Constitution of 1972, that we shall give full market value to these lands. That is what the Legislature is directed to do. There is also a large amount of case law which said that the Legislature is to act with undivided loyalty when it comes to handling the state school lands for the children. The Senator suggested the Legislature cannot deal with the factors because they only meet every two years for 90 days, they deal with a myriad of issues, and cannot focus on this issue and do right by these lands. The Board of Land Commissioners meets monthly and would have a better chance of dealing with this issue if they had the authority to do so. SB 424 gives the Board this authority. The Board can meet with the farmers and ranchers, react more quickly, and be a more flexible system than the Legislature.

Senator Blaylock said the monies from the state school lands are a valuable asset which flows directly into the School Foundation Program. There are 5,200,000 acres presently included in state school lands.

Proponents' Testimony:

State Auditor Mark O'Keefe, a member of the State Land Board, spoke as a proponent of SB 424, and said he would be asking for an amendment at the end of his testimony. Mr. O'Keefe presented Exhibit No. 3 to these minutes. He said he, as well as other members of the State Land Board, took oaths that they would uphold the Constitution which states they will receive full market value of school lands and the revenue is to go to the school children of Montana. Mr. O'Keefe believes the state is not now receiving full value for its school lands. SB 424 deals with one thing: it establishes who sets the rates for full market value of school lands. Under current law, the State Land Board already has the right, and the authority, to set rentals or fees in the case of agricultural uses for crops, grazing, or special recreational use. It does not have the right to set the fees for cabin sites or general recreational use. SB 424 will allow the members of the State Land Board to treat cabin sites and general recreational uses the same way they treat agricultural, grazing, and special recreational rates. Mr. O'Keefe asked for an amendment to take out the $25 fee for recreational users. He said no other rates or fees are set in SB 424. If the Land Board is to set rates for full market value, then the Legislature should not be setting those rates. He asks

that the Land Board be allowed to set that full market value for recreational land use as it evaluates and looks at other uses of state school lands. Mr. O'Keefe said the Land Board is willing to deal with the challenge, and come up with what the Board thinks is full and fair market value of the use of those lands.

Nancy Keenan, State Superintendent of Schools, spoke in favor of SB 429. Ms. Keenan believes it is a constitutional mandate for the Land Board to obtain full market value for school trust lands. She said the Land Board is charged with managing the largest farming/ranching operation in this state, 5.2 million acres. At the same time they are charged to manage these lands in a good and very equitable manner. These state lands were set aside for the children of the State of Montana. She said there are three partners in this: the ag community, the State of Montana, and the children of the State who will benefit by the resources that ultimately go into the trust. Ms. Keenan asks that the amendment proposed by Auditor O'Keefe be adopted, and she believes it is consistent with the authority of the Land Board in setting the other rates, as well. Ms. Keenan said the State Land Board sits each month deliberating on whether it should let mining leases go, whether it is providing access to a particular piece of state lands, whether it is determining what it should lease cabin sites for, or whether to sell an unmanageable piece of land that is not in the best interests of the state to retain, and she thinks the Board is able to take the time to closely consider the issues at hand through an open public forum. Ms. Keenan said if the state gets full market value for school lands, it will help the Legislature in trying to fund public schools.

Leo Berry, an attorney in private practice, spoke in favor of SB 424, saying he worked for the Department of State Lands for several years. During that time, he educated himself as to the history and purpose of these lands. The original intent of grant lands was to create a school trust, and it wasn't a land-based trust, it was a monetary trust. The original concept behind school trust lands was to sell the lands and create a monetary trust. Other states have sold their lands for virtually nothing. In Montana's Enabling Act, Congress placed a $10/acre minimum sale fee. In 1889, the state couldn't sell the land for $10 an acre and this is how the leasing system came into being. The principle of obtaining full market value was incorporated into the Enabling Act and into the Constitution. The state is obligated to obtain full market value for any interest-holding in the land. These lands were given to the state for one reason, to support education. It is not so people can recreate on it, it is not so people can raise crops on it, it is not so they can graze their cattle on it, although all of these are beneficial uses. The purpose is to raise revenue for the educational system of this state. This Legislature has an obligation to ensure that happens. The last time the rates were changed was 1977, and it hadn't been changed for many years prior to that. The school lands have basically subsidized the private lands in the past.

Mr. Berry said some of the private lands are at the rate they are, and people can afford to bid on them because they have lower rates on their school trust lands. Eventually, as school trust land leasing rates rise, private land leasing rates will lower. The school trusts will benefit in that, and Mr. Berry doesn't think it will harm any agricultural interests. All that is being talked about is fair market value. The Board of Land Commissioners are better suited to deal with the realities because it meets more often, and has a broader perspective of what these lands are for, than does the Legislature. SB 424 places the authority to obtain full market value in the Board of Land Commissioners.

Don Waldron, representing the Montana Rural Education Association (MREA), said MREA believes full market value should be set, and they don't think setting rates in the Legislature is fair to the people leasing that land, and in some cases it is not fair to the students. Mr. Waldron said they could not support a bill that would double or triple the amount the taxpayers are paying for leasing that land, but SB 424 allows the students to get a fair market value from the trust fund that benefits them.

Dennis Casey appeared in support of SB 424 as an individual. Mr. Casey said he is a former Commissioner on the Department of State Lands and has a life-time interest in issues surrounding those lands that have been set aside for public schools and institutions in Montana. Mr. Casey said decisions for obtaining the full market value of those lands should be with the body who meets as the trustees of public lands, the Board of Land Commissioners. Establishing full market value through the legislative process does not work for several reasons: (1) The time constraints of the sessions; (2) The lack of understanding of some legislators as to the responsibility to that trust; and, (3) The attempt to serve both the trust and constituents whose goals and objections at times may differ.

Eric Feaver, Montana Education Association (MEA), rose in support of SB 424. Mr. Feaver said hard economic times are forcing massive school cuts and massive tax increases on the very people whose programs and services are being cut. In 1983, the Attorney General ruled that it was the obligation of the Land Commissioners to establish full market value for state school lands. In 1985, the MEA came to the Legislature with a bill to do substantially what is being considered now. That bill became a Resolution for an interim study, but the Resolution was not funded. Mr. Feaver said even though it is agreed that the Board of Land Commissioners is empowered to do what it thinks needs to be done, without legislation that obligates it to establish full market value, he doesn't think the Land Commissioners will do it. He also doesn't think the Legislature will do it, either. Mr. Feaver thinks the best value from state school lands should be obtained for support of state schools, and SB 424 will place the burden where it should have been all along. It will empower the Board of Land Commissioners to get the job done as our State

Constitution requires, and he feels it is very important to get full market value for state school lands.

Tony Schoonen, representing the Coalition for Appropriate Management of State School Lands, appeared in support of SB 424. Mr. Schoonen said there is a mandate by the Constitution to set the full market value, but that has not been done. He said the Coalition went to court on this issue and their lawsuit brought out basically everything included in the study by John Duffield. Their Coalition would like to see some of the "sacred cows" booted from the school lands; they would rather sacrifice some "sacred cows" than state children. Mr. Schoonen said the Coalition has been contacting other states on recreational value of state lands for nearly 20 years, and they question Dr. Duffield's study results in this respect. The recreationists are willing to pay their fair share of use of state school lands, but they feel they have been subsidizing the present levies through higher mill levies, law enforcement on public lands, wildlife, and management on public lands. Other states don't charge for these services, and because of those indirect values to the Trust, members of the Coalition are still willing to pay, but he asks that it be fair.

Opponents' Testimony:

Senator John Brenden spoke in opposition to SB 424 as a representative of Daniels, Sheridan, and Roosevelt counties. His written testimony is attached to these minutes as Exhibit No. 4, and a map of State Lease Lands is attached as Exhibit No. 5.

Tim Tanberg, President of the Montana State Leaseholder Association, of Seeley Lake, presented his written testimony in opposition to SB 424, which is attached to these minutes as Exhibit No. 6.

Richard Miller spoke in opposition to SB 424. He said in the past 15 years that he has been actively paying leases on state school lands, the leases have jumped from $10 to $30, to $60, to $450, to well over $1,000 this year. The land he is referring to is under water in the spring. Mr. Miller believes SB 424 is unfair in that the current assessment by the Montana State Department of Revenue (DOR) is not accurate in the assessment of the land. It is being assessed without the DOR even setting foot on the land to view it. Mr. Miller thinks if the lease amount is being based on that assessment, it is an unfair lease amount. This leased land has been in his family since it was first put on the records, and any changes in the assignment of the lease will result in open bidding at public auctions. That means that his mother cannot sell that lease to him without it going to public auction. He would like to pay a fair price for the lease; however, the jump from $450 to $1,000 is pretty steep.

John Youngberg, representing the Montana Farm Bureau, spoke in opposition to SB 424, and presented his written testimony as Exhibit No. 20.

Jim Peterson, representing the Montana Stockgrowers Association, Montana CattleWomen, and Montana Wool Growers Association, spoke in opposition to SB 424, and presented his written testimony as Exhibit No. 8.

San Hofman, Manhattan, spoke in opposition to SB 424, and presented his written testimony as Exhibit No. 7.

Tom Loftsgaard, Chairman of the Land Management Council, spoke in opposition to SB 424, and presented his written testimony as Exhibit No. 9.

John Bloomquist, representing the Montana Stockgrowers Association, spoke in opposition to SB 424, and presented a written evaluation by Terry Anderson and Myles Watts, Exhibit No. 10 to these minutes; and a study conducted by Pepperdine University, Exhibit No. 11 to these minutes.

Steven Roth, representing the IX Ranch Company of Big Sandy, appeared in opposition to SB 424; his written testimony is Exhibit No. 12.

Steve Carney, a farmer from Daniels County, spoke in opposition to SB 424, and presented his written testimony as Exhibit No. 13.

Myron Halverson, Daniels County farmer, presented his written testimony in opposition to SB 424, as Exhibit No. 14.

LeRoy Nelson, agricultural education teacher at Peerless School, representing the Land Management Council, spoke in opposition to SB 424, and presented his testimony as Exhibit No. 15.

Barry Handy, Scobey farmer/rancher, presented his written testimony in opposition to SB 424, as Exhibit No. 16.

Marvin Tade, Scobey, presented Exhibit No. 17 to these minutes, which is a copy of farm and ranch operation accounts on 160 farms in NE Montana, covering the years 1988 through 1991. Mr. Tade said 23% of land in Daniels County is state land and almost every land owner in the County has to farm some state school land. Mr. Tade is opposed to SB 424.

Bob Fouhy, a Board Member of, and representative of, the Land Management Council, presented his written testimony in opposition to SB 424 as Exhibit No. 18 to these minutes.

Tom Loftsgaard presented Brian Hagan's written testimony opposing SB 424, attached to these minutes as Exhibit No. 19.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Grosfield asked John North, Chief Legal Counsel, State Lands Department, if the Enabling Act applies to certain state lands and the Constitution applies to certain state lands, but neither one of these applies to all state lands. Mr. North said the Enabling Act applies to all lands that were granted to the State of Montana in trust, which includes the school trust lands, the lands granted in trust for the University System, State Reform Schools, Schools for the Deaf and Blind, and the State Normal School. The provision in the Constitution regarding the fair market value applies to all state lands.

Senator Grosfield said Section 10 of SB 424 has to do with the effect of competitive bidding and establishes a rental price higher than the rental price established by the Board. The Senator asked Mr. North the purpose of that language in the bill. Mr. North said the purpose is to insure that the lessee does not abuse the land in order to obtain the revenue necessary to pay the lease rate.

Senator Grosfield said Section 9 (2) of the bill talks about raising the rentals during the term of the lease, and asked if this would make any difference using the new full market value approach. Mr. North said that language is currently in grazing and agricultural leases and provides that if the Legislature raises the rate mid-term, that is applicable to the next lease year. Since the bill is transferring the authority to the Land Board, the purpose would be to provide that anything that the Land Board does to raise the rates would also go into effect the next lease year. The Senator asked if this means that the landlord could do that every year in response to what it is calling fair market value considerations. Mr. North replied, "Legally, yes".

In looking at the fiscal note, and looking at the Duffield Study, Senator Doherty asked Bud Clinch, State Lands, how many grazing leaseholders there are in Montana, and how many agricultural grants there are in Montana. He said the information he is interested in is how many leaseholders there are, who they are, how many animal unit months they are working, and a spread sheet that shows for each of these people how much additional they would be paying if the Duffield Study is used for both the farming and the grazing. He is interested in knowing the individual impact of the individual outlay. Mr. Clinch said they could give a rough figure for the combination of the entire leasing; it would take to time to compile individual figures. Senator Doherty said he would like a list of all members of the Legislature who have state grazing or farm leases. The State Lands Department will provide this information.

Senator Doherty said some families have had cabin sites for generations and have made a lot of improvements to the land. He asked Senator Blaylock if the State Land Board would take a look at those improvements, including water and fencing, etc., that lease operators have put in, in order to determine the full market value of lease land, and could it be possible that they would come up with a number that might be less than the current charges the state is now collecting on those leases. Senator Blaylock said this is possible, and he thinks that is a good part of this whole proposal to give support to the State Land Board because he thinks there needs to be a lot more flexibility to what they are doing, and it will probably wind up being fairer to a lot of people who are leasing state lands.

Senator Doherty asked Jim Peterson what full market value is, as stated in the Constitution. Mr. Peterson said there has to be a comparable analysis including all of the factors in determining the full market value. In good conscience, the long term productivity of the resource needs to be considered; what is good for the land and how will that work long-term, and what is good long-term for the lessee.

Senator Doherty asked Mr. Peterson what he would think about adding some amendments that would direct the Land Board to take those things into consideration. There are substantial improvements being made by leaseholders, making the property much more valuable, and he thinks it goes beyond just the cost of the actual water system and the fence. Mr. Peterson agreed, and said another factor is weed control costs of $30 to $60 per acre, which are more than the lease itself. If the lessee is making these improvements, there needs to be some process defined so some credit can be made for those improvements.

Senator Yellowtail asked Mr. Peterson if he knows what percentage of farmers and ranchers in Montana are leasers of state lands, and what percentage of the Stockgrowers Association membership leases state lands. Mr. Peterson did not know.

Senator Yellowtail said most of the criticism heard today is of the Duffield Study. He asked Senator Blaylock if the Legislature transfers the full responsibility to the State Land Board, would this Study be the model that would be used for establishing full market value. Senator Blaylock replied, "No".

Senator Gage asked if the State Land Board currently sets the grazing fees. Mr. Peterson said the minimum rental is codified in law, but the Board has the authority to adjust those minimums, both in the case of grazing leases and crop shares. If SB 424 passes, the formula for fixing the annual rental will be repealed, and the State Land Board will be given the authority to set the fee based on their judgment. They will have to come up with a new formula or a new process and the lease will be adjusted. Mr. Peterson believes cabin site leases and recreation fees are set by the Legislature and codified.

Senator Gage asked if the statute sets the minimum. Mr. Peterson said this is correct, and the minimum is 25% on crop shares, and 6 times the market price of beef on grazing.

Senator Gage asked if the Board would have the authority to go below the minimum if the market was below minimum. Mr. Peterson said he understands that is a possibility, if the Board chose to credit some of the enormous costs associated with weed control. Their main concern is that there is no process here to insure any of that happening.

Senator Van Valkenburg asked Mr. Peterson if, even though he opposes SB 424, did he support the concept of giving full authority to the Land Board to set the minimum lease rates as opposed to using a legislative process to do it. Mr. Peterson said this is not correct. His testimony said that it ought to be one way or the other. Right now, some is set legislatively, and some is established by the Land Board. At this point in time, the Montana Stockgrowers Association, Montana CattleWomen, and Montana Wool Growers Association, are uncomfortable the way the bill is written and oppose it because it doesn't protect the resource or the lessees with just a Land Board working in what he considers to be a corporate environment. There is no process established. He said as frustrating as the legislative process can be, at least there is a process requiring hearings. There is no guarantee in SB 424 that will happen.

Senator Van Valkenburg asked Mr. Casey if he thinks there is any real way the lease rates could be increased, if that were appropriate, through the legislative process. Mr. Casey said he thinks it would be difficult, and the hearing today points up that fact. What the opponents have said today has a lot of validity and should be part of the process in determining what the lease rates would be. If the Legislature had the time to go through the process, which would include hearings, then this might be the proper place. He thinks that the Land Board is the best place to make those decisions.

Senator Towe asked Mr. Peterson if he said that all of the price-setting should be done by the Land Board, or all of it done by the Legislature, but it shouldn't have it like it is today. The Senator said SB 424 seems to give all the authority to the Land Board, and everyone said they are not bound by the Duffield Study, and they can take it and determine their own fair market value. He asked Mr. Peterson what is so wrong with a bill that would do that. Mr. Peterson said the biggest problem he sees with the bill is that it does not define the process; it doesn't insure a long-term process for the benefit of the resource or the lessee. It mandates full market value, implying that this is in the Duffield Study, through the fiscal note, and through testimony heard today. He thinks there has to be a clarification of what is meant by full market value, to insure the long-term benefit.

Closing by Sponsor:

Senator Blaylock said the existing process is not working, in that only 8% of the state school land is competitively bid. He has read the Duffield Study and he does not believe it is far off the mark. If the agricultural people do not like the figures in the Study, they should look at their own agricultural statistics and they will find the Duffield Study tracks very closely with those statistics gathered and produced annually. He has offered amendments to the bill, and asks the Committee to consider the amendments with its deliberations on SB 424.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:00 a.m.

MIKE HALLIGAN, Chair

BONNIE STARK, Secretary

MH/bjs

ROLL CALL

SENATE COMMITTEE TAXATION DATE 3-19-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang			✓
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

EXHIBIT NO. 2
DATE 3-19-93
BILL NO. SB 424

AUTHORITY OF BOARD TO SET RENTALS AND LICENSE FEES

CONSTITUTIONAL LANGUAGE: Article X, Section 4 provides that the Board shall control and lease state lands "under such regulation and restrictions as may be provided by law." Article X, Section 11 (2) provides that the Board must obtain full market value, "to be ascertained in such manner as may be provided by law..."

STATUTES:

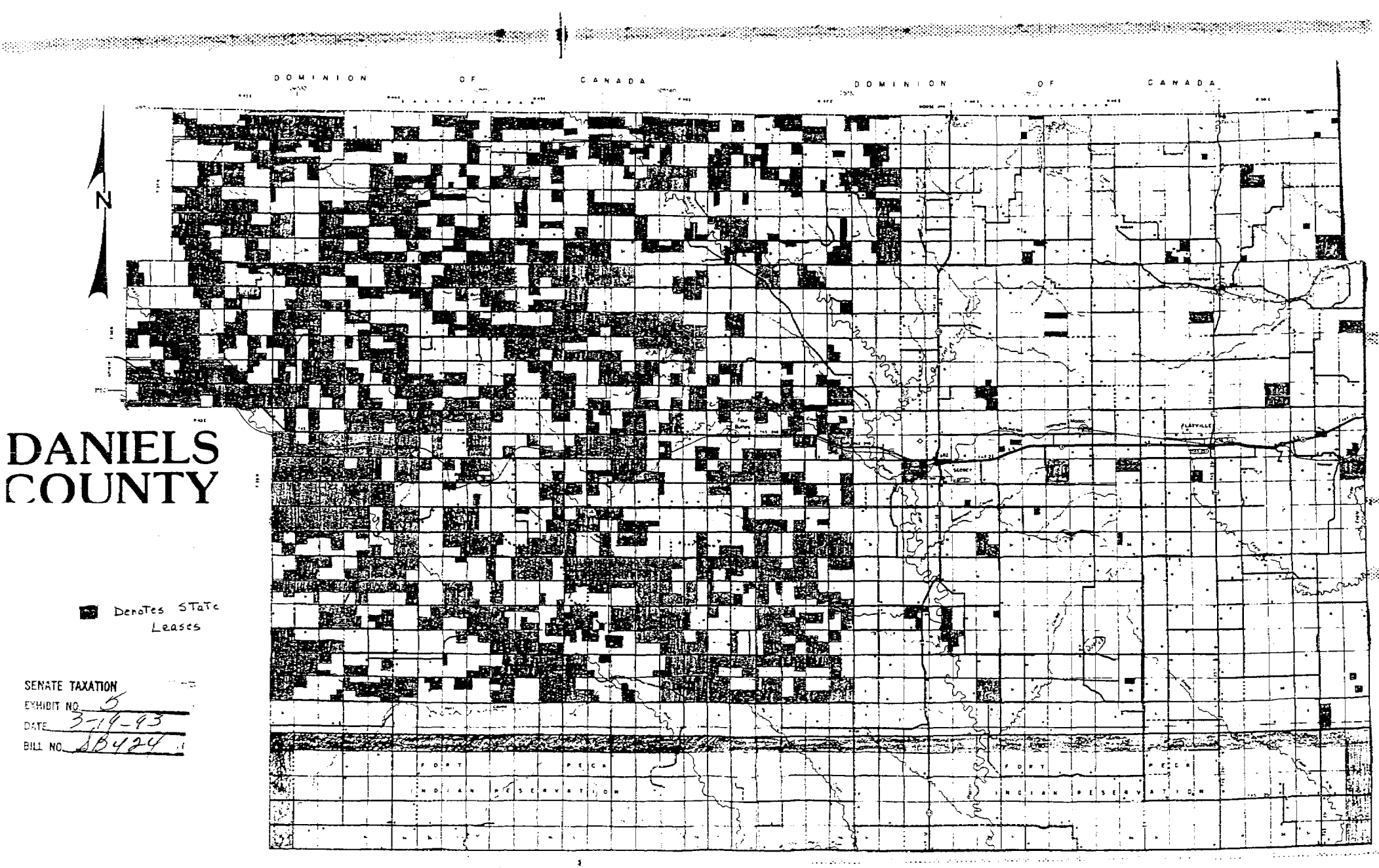
Type of Use	Citation	Does statute give Board authority to set rental or fee?
Agriculture	77-6-501	Yes
Grazing	77-6-507	Yes (40 Op.A.G.,No.24)
Special Recreational Use	77-1-805(2)	Yes
Cabinsites	77-1-208	No
General Recreational Use	77-1-802	No

SENATE TAXATION
EXHIBIT NO. 4
DATE 3-19-93
BILL NO. SB 424

CHAIRMAN HALLIGAN AND MEMBERS OF THE TAXATION COMMITTEE. I AM SENATOR JOHN BRENDEN AND AM SPEAKING ON BEHALF OF MY CONSTITUENTS.

TO RAISE THE CROP SHARES AND AUM'S ON STATE LEASES SUBSTANTIALLY WILL NEGATE THE ABILITY OF THE LESSEE TO CARE FOR THESE LEASES FOR THE COMMON GOOD OF THE PEOPLE OF MONTANA AS SET FORTH IN MCA 77-1-601.

MCA 77-1-601 READS: IT IS IN THE BEST INTEREST AND TO THE GREAT ADVANTAGE OF THE STATE OF MONTANA TO SEEK THE HIGHEST DEVELOPMENT OF STATE OWNED LANDS IN ORDER THAT THEY MIGHT BE PLACED TO THEIR HIGHEST AND BEST USE AND THEREBY DERIVE GREATER REVENUE FOR THE SUPPORT OF THE COMMON SCHOOLS, THE UNIVERSITY SYSTEM, AND OTHER INSTITUTIONS BENEFITING THEREFROM, AND THAT IN SO DOING THE ECONOMY OF THE LOCAL COMMUNITY AS WELL AS THE STATE IS BENEFITED AS A RESULT OF THE IMPACT OF SUCH DEVELOPMENT.



SENATE TAXATION
EXHIBIT NO. 5
DATE 3-19-93
BILL NO. SB424

1

TIM TANBERG PRES, MONT, ST, LEASEHOLDER ASSN
BOX 136
SEELEY LAKE 59868

INTRO member of committee
Hom TT pres mont s/la

SENATE 1.....ION
EXHIBIT NO. 6
DATE 3-19-93
BILL NO. SB 424

The implementation of SB 424 will be disastrous to the cabin site lease program. The current assessment of 3.5% of property value is a RESPONSIBLE + rational attempt to find a reasonable and accurate lease rate. The fact that every 2 years the legislature throws new changes at the cabinsite lease program quite likely will destroy it.

These leases have been, developed + maintained by leaseholders, with minimal expense to the state since their conception in the 30's, and much, of their present value can be attributed directly to the efforts of the leaseholders,

The 250,000.00 DUFFIELD STUDY, that has the entire capitol in a buzz, is hardly broad, or accurate enough, to base reasonable or fair lease increases upon. The entire receipts from 1992 cabin site rentals were a little more than $9000.00 OVER what Mr. DUFFIELD was paid for this study. Money that would have gone a long way toward, paying salaries, buying books, or maintaining facilities for the school system.

While taxpayers are asked to tighten their BELT, while valuable programs are dropped or cut back, while the UNIVERSITY systems are asked to sacrifice. FRIVOLOUS studies like this are awarded ¼ million dollar contracts.

It should be noted that this study is 1 sided and fails to even touch upon the human element of the lease program. TAXES, the lessee's contribution to the STATE + local economies, the stewardship of the land itself, are completely ignored. The burdens by the DSL and it's employees to follow surface management rules to the detriment of the program are never mentioned.

MR DUFFIELD, in his desire to present what he felt, wanted to be heard, failed to contact even 1 cabinsite or homesite leaseholder and expanded upon what basically was an essay by several DSL employees, and the findings of 1 or 2 appraisers.

It is interesting to note that Mr. Duffield targeted 100% of every other group examined in this study, but when it came to cabinsite he targeted less than 3% of the 618 leaseholders in the

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SB-424

and then drew the conclusion that HEY they do it in IDAHO!

Mr. Duffield's conclusion, that you can get more, possibly bears some merit, however he makes no suggestion as to how to do it equitably, or without destroying the program altogether. After listening to Mr. DUFFIELD defend his study before the land board and the testimony from the agricultural [redacted] community about it. It can be assumed that the state of Mont. GOT NO BARGAIN from this study.

77-1-601 of the M.C.A. states "It is in the best intrest and to the best advantage of the state of Mont. to seek the highest develop. of state owned lands in order that they might be placed to their highest and best use and thereby derive greater revenue for the support of the common schools, the university system, and other institutions benefiting therefrom, and that in so doing the economy of the local communities as well as the state is benefited as a result of the impact of such development."

Under the current program the DSL rewards those who fail to improve their leases and penalizes those who do improve their leases by using personal property as leverage to increase rates. SB424 will make matters worse if a person is barred from a reasonable return on investment in improvements.

It needs to be recognized that the lease program HAS to maintain a level of profit for the TRUST and intrest to the lessee and potential lessee, that lends itself to the perpetuation of the program to achieve the highest development and return. The FUTURE of the school trust lease program depends on people being intrested in continuing to lease, to the benefit of the state, the schools, the local communities, and themselves and their families.

With 150 legislators, 5 members of the land board and many other parties continously throwing legislation and rule changes at the program, personal property values drop, frustration builds and the likelyhood of the survival of the lease program diminishes.

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It is unacceptable that 618 cabinsite leases are targeted with rate increases that range from hundreds to thousands of percentage and those leases comprise fewer than 2000 ac of a system that includes 5.2 million acres less than .05% of the school trust lease program. They cannot and should not be expected to maintain such a great and ever increasing portion of the burden of school funding.

If these cabinsite leases are so valuable why aren't there more? There are 4 basic reasons

first; because the DSL can't handle the greater work load.

second, None of the lease receipts go toward administration of the lease program therefor there is no incentive to maintain an efficient method that will adequately respond to changing market trends

third The lease market itself is not nearly as large as many imagine it to be. (2 or 4 example) there are many platted leases that have never been leased and have been removed from offering. Either on account of

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out of 640 are leased with no return to the trust on the remainder.

and fourth Many of these leases are misrepresented by the DSL as having ~~recreation~~ great recreational value, when they should be listed as residential or city & town lot.

If SB 424 becomes law rather than gaining the added revenue that this legislature seeks. Many leaseholders will abandon the program entirely, leaving the DSL with the enormous task of dealing with the liability of abandoned buildings, sewer systems, junked cars and garbage. The number of cabinsite leases will decrease to where the trust will receive far less than what it receives now. and the prospect of lawsuits over treatment that many perceive to be descriminatory is rapidly becoming more likely. Therefor we urge you to ~~kill this bill~~. AMEND the cabinsite lease portion out of this bill and or kill ~~it~~ the leases it altogether.

TESTIMONY BY SAM HOFMAN, Manhattan

OPPOSING SB 424.

SENATE TAXATION
EXHIBIT NO. 7
DATE 3-19-93
BILL NO. SB424

Lessees of State land now pay an initial fee of $25.00 for a Land Use License. the cost of the license is $50 per year but paid in advance at the time the lease is renewed. ($500.) the purpose is for grain bin storage and buildings. On the private sector, leases usually include the use of all buildings and improvem

On the Private sector, landowners pay for one-third of the fertilizer expenses on crop share agreements. On addition, landowners also pay a share of the weed control costs, usually one third. On my agreement with my sister I pay all the weed control costs in exchange for grazing benefits. If weed control costs were deducted from my sister's crop share, her return per acre would be consistantly less than the States share even under the 25% rental agreement we now have.

Most farmers in my area do not run cattle and therefore are not able to utilize the grazing on their State leases that they are required to pay for.

GRAZING FEE COMPARISONS

Following figures are 5 year averages.

Brackens	½ section	@ 95. per year
DeBoer	½ section	95. " "
Bronwer	1 section	220. " "

State of Mont 1 section 90 AUM at @ 4.05 = @ 364.50

Fiscal note increase to @ 7.60 per AUM = @ 684.00

EXHIBIT 7
DATE 3-19-93
SB-424

Wheat

1992 84.04 bu per acre at $3.05 per bu = $256.26 Return per acre

	¼	⅓	Sister's Place ⅓ crop share
State share	64.07	85.42	Her share 85.42 less ⅓ part 13.57 = 71.8
Renter share	192.19	170.84	My share 170.84
less Fertilizer	40.75	40.75	less ⅔ part 27.17
Renter Net	151.44	130.09	Renter net 143.67

1991 36.75 bu per acre at $2.83 per bu = $104.18 Return per acre

	¼	⅓	Sister's Place ⅓ crop share
State share	26.04	34.73	Her share 34.73 less ⅓ part $12.02 = 22.7
My share	78.14	69.45	My share 69.45
less Fertilizer	36.05	36.05	less ⅔ part 24.03
Renter net	42.09	33.40	Renter net 45.42

1990 38.12 bu per acre at $2.48 per bu = $94.64 return per acre

	¼	⅓	Sister's Place ⅓ crop share
State share	23.66	31.55	Her share 31.55 less ⅓ part $14.13 = $17.4
My share	70.98	63.09	My share 63.09
less Fert.	42.39	42.39	less ⅔ part 28.26
Renter net	28.59	20.70	Renter Net 34.83

1989 44.15 bu per acre at $3.82 per bu = 168.58 Return per acre

	¼	⅓	Sister's Place ⅓ crop share
State share	42.14	56.19	Her share 56.19 less ⅓ Fert. 15.57 = $40.6
My share	126.44	112.39	My share 112.39
less Fertilizer	46.70	46.70	less ⅔ part 31.13
Renter Net	79.74	65.69	Renter Net 81.26

Wheat

1988 44.48 bu per acre at $3.55 per bu = 158.14 return per acre

	1/4	1/3	Sister's Place 1/3 crop share
State share	39.53	52.71	Her share 52.71 less 1/3 fert 13.99 = 38.72
My share	118.61	105.43	My share 105.43
less Fertilizer	41.96	41.96	less 2/3 Fert. 27.97
Renter net	76.65	63.47	Renter net 77.46

BARLEY

1992 86.62 bu per acre at $1.89 per bu = $163.62 return per acre.

	1/4	1/3	Sister's place 1/3 crop share
State share	40.90	54.54	Her share 54.54 less 1/3 Fert. 9.50 = 45.04
My share	122.72	109.08	My share 109.08
less Fertilizer	28.49	28.49	less 2/3 Fert. 18.99
Renter net	94.23	80.59	Renter net 90.09

1991 38.5 bu per acre at $1.54 per bu = 59.14 return per acre

	1/4	1/3	Sister's Place 1/3 crop share
State share	14.78	19.71	Her share 19.71 less 1/3 fert 12.73 = 6.98
My share	44.36	39.43	My share 39.43
less Fertilizer	38.18	38.18	less 2/3 Fert. 25.45
Renter net	6.18	1.25	Renter net 13.98

BARLEY

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1990 43.6 bu per acre at $1.76 per bu = 76.83 return per acre

	1/4	1/3	Sisters Place 1/3 crop share
State share	19.21	25.61	Her share 25.61 less 1/3 fert 10.93 = 14.68
My share	57.62	51.22	My share 51.22
less Fertilizer	32.78	32.78	less 2/3 fert. 21.85
Renter net	24.84	18.44	Renter net 29.37

1989 43.75 bu per acre at $1.87 per bu = 81.66 return per acre

	1/4	1/3	Sister's Place 1/3 crop share
State share	20.41	27.22	Her share 27.22 less 1/3 fert 11.55 = 15.67
My share	61.25	54.44	My share 54.44
less Fert.	34.64	34.64	less 2/3 fert 23.09
Renter net	26.61	19.80	Renter net 31.35

1988 50.19 Bu per acre at $2.27 per bu = $114.15 return per acre.

	1/4	1/3	Sister's Place 1/3 crop share
State share	28.54	38.05	Her share 38.05 less 1/3 fert 9.18 = 28.87
My share	85.61	76.10	My share 76.10
less Fert.	27.53	27.53	less 2/3 fert 18.35
Renter net	58.08	48.57	Renter net 57.75

LANDOWNER SHARES

CROP SHARE COMPARISONS

WHEAT

	State share 1/4	State share 1/3	SISTENS PLA 1/3 seed cost 1/3 fertilizer
1992	64.07	85.42	71.84
1991	26.04	34.73	22.71
1990	23.66	31.55	17.42
1989	42.14	56.19	40.62
1988	39.53	52.71	38.72
AVERAGE	39.09	52.12	38.26

BARLEY

1992	40.90	54.54	45.04
1991	14.78	19.71	6.98
1990	19.21	25.61	14.68
1989	20.40	27.22	15.67
1988	28.54	38.05	28.87
AVERAGE	24.77	33.03	22.25

LANDOWNER SHARES

CROP SHARE COMPARISONS

WHEAT

	State Share 25%	State Share 30%	SISTER'S PLAN 1/3 Cropland + Fallow
1982	53.04	63.65	58.41
1981	58.74	70.48	66.29
1979	32.76	39.31	36.17
AVERAGE	48.18	57.81	53.62

BARLEY

1982	26.22	31.47	21.32
1981	35.48	42.58	35.37
1979	27.74	33.29	29.46
AVERGE	29.81	35.78	28.71

RENTER NET SHARES

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CROP SHARE COMPARISONS

	State 1/4	State 1/3	SISTERS PLA 1/3 Schedule 1/3 Farm
WHEAT			
1992	151.44	130.09	143.67
1991	42.09	33.40	45.42
1990	28.59	20.70	34.83
1989	79.74	65.69	81.26
1988	76.65	63.47	77.46
AVERAGE	75.70	62.67	76.52
BARLEY			
1992	94.23	80.59	90.09
1991	6.18	1.25	13.98
1990	28.84	18.44	29.37
1989	26.61	19.80	31.35
1988	58.08	48.57	57.75
AVERAGE	42.79	33.73	44.51

SENATE TAXATION
EXHIBIT NO. 8
DATE 3-19-93
BILL NO. SB 424

TESTIMONY
Senate Tax Committe on S.B. 424
Montana Stockgrowers Association, Montana CattleWomen,
and Montana Wool Growers Association
March 19, 1993

For the record, my name is Jim Peterson. I am executive vice president of the Montana Stockgrowers Association and a rancher from central Montana. Today I am speaking in opposition to S.B. 424 on behalf of the Montana Stockgrowers, the Montana Wool Growers and the Montana CattleWomen.

The purpose of S.B. 424 is two fold: First, to place authority for establishing fees on all uses of state school trust lands with the State Land Board and to require the Board of Land Commissioners to attain "full market value" for leases on school trust lands. Second, to use the recently released, "Duffield Study" as guidelines for the Board of Land Commissioners to attain "full market value" for leases on state school trust land. While not specifically stated in the bill itself, the fiscal note implies and provides guidelines that the Duffield Study's recommended fees should be used by the Board of Land Commissioners in obtaining full market value.

First, this discussion should be separated into two parts: (1) Who has or should have the authority to establish fees on state school trust lands--the Legislature or the State Land Board? and, (2) What guidelines should be used, (i.e. studies, or surveys) in establishing the land use fees themselves. S.B. 424 tends to throw both issues together through the bill and the fiscal note which in our opinion should not be done. The issues are separate and should be addressed separately.

Our opposition to S.B. 424 and the establishment of authority within the Land Board to set fees and requiring "full market value" is based on a basic lack of consideration for the long-term protection of the resource and the lessees. For example, S.B. 424 places authority with the State Land Board but establishes no procedure for "due process" for establishing fees and no procedure for users of state lands to participate. As you may know, the current State Land Board meets once a month, discuss issues placed on the agenda, and then make decisions. For an issue as important as establishing fees, there is no required notice to state land lessees, no requirement for hearings and comments, and no appeals process. Some say the Land Board decisions will not be political, but we all know there is certainly no guarantee of that, given the political makeup of the State Land Board and how it may change.

It is very interesting to us, that the legislature is very frustrated with the Board of Regents and is considering pulling authority away from the Board of Regents back to the legislature. However, in this case, the legislature is being asked to give up authority and grant tremendous power to set fees to the State Land Board which conceivably could become another Board of Regents itself. As frustrating as it might be, at least the legislature is bound to a democratic process.

Finally, S.B. 424 includes some land uses on state lands but not all. For example, cabin site licenses and leases are addressed, recreational use is addressed, and grazing fees are addressed, but it is not clear what happens to a crop share lease or other special uses of state lands such as outfitting fees or other commercial

use fees. Specifically on grazing fees, S.B. 424 eliminates any tie to the formula reflecting current cattle prices which we feel is very important in maintaining equity and fairness in grazing fee leases.

The second part of my testimony centers around the implication that the Duffield Study should be used as a guideline by the Board of Land Commissioners in obtaining "full market value". Just a little over a month old, the Duffield Study is entitled, "The Economic Analysis of the Values of Surface Uses of State Lands" and was prepared for the Montana Department of State Lands by Bio Economics, Inc., which is principally Dr. John Duffield, Professor of Economics at the University of Montana. Dr. Duffield's report recommends a fair market 1992 average price for grazing, crop land, recreation, cabin sites and outfitting uses of state lands.

Our greatest concern with this report is the apparent "knee jerk" reaction to the recommendations and the attempt to codify the recommendations by Rep. Kadas in H.B. 665 and now an attempt to use the recommendation as guide lines for the Board of Land Commissioners to use in setting fees. No one has had a chance to really analyze the study adequately, the statistical data has not been reviewed by other researchers and in some cases reviewers are unsure and question the assumptions used in the study. Yet this bill proposes to adopt the recommendations in the fiscal note and use them as guidelines for the Board of Land Commissioners.

Since the Duffield Study was released in February, four economists--Dr. Myles Watts and Dr. Terry Anderson from Montana State University, Dr. Gerhard Rostvold and Dr. Thomas Dudley from Pepperdine University in California, have been reviewing the economic theory and statistical analysis used in the study. All four have indicated concern over the methodology and analysis used.

A preliminary report by Dr. Myles Watts and Dr. Terry Anderson was presented to the Select Committee on School Funding as testimony in opposition to H.B. 665 on March 11, 1993. A copy of that testimony is being provided to you for your review. Just yesterday, we received the report by Pepperdine University reviewing the Duffield Study which I will also provide to you for your review.

In both reports, highly respected economists strongly recommend a detailed review of the methodologies, the factual foundation, and conclusions drawn by Professor Duffield, et. al., before any major adjustments are made in grazing lease prices on state school trust lands in Montana.

As you will probably hear, Dr. Duffield used six different approaches to estimate what he calls, "current fair market value" for state school grazing leases in Montana.

The first approach was based on a statistical model called the "Hedonic Model" and both groups of researchers question the appropriateness of this model in comparing lease fees on private lands and predicting the "market value" of grazing fees on state school trust lands in Montana. Both groups of researchers conclude that this price theory model is not appropriate in this case.

The second approach looked at the average price of the private leases that are most like state leases. The Duffield Report uses a sample of only six private leases in deriving a state wide mean and this data base simply provides no foundation for the conclusions drawn.

The third approach looked at average competitive bid for the 8% of all state school land grazing leases which are competitive bid. It is highly unlikely that the competitive bidding process on state lands meets the well defined criteria of a purely competitive market where many buyers, (ranchers) are bidding for the product (grazing lands) being offered by many sellers. Again, the reality of the situation simply does not fit the model and does not describe the market model fundamental to the conclusions of the Duffield Report.

The fourth approach was to look at what the ranchers report as a "fair market price" for state leases. Ranchers were asked to provide a AUM based average price for private leases in their area and was then asked to estimate the percent of that average private lease rate they though represented the price for state leases. Individual factors comparing the two were not discussed with the ranchers surveyed and as the Pepperdine economists articulated, "opinions rarely meet the test of factual objectivity."

A fifth approach was to examine what other public land agencies such as BLM, Forest Service and Bureau of Indian Affairs were using as lease rates for grazing lands. Professor Duffield and his colleagues completely dismissed BLM and the Forest Service lease rates as not providing useful information, but they quickly accepted leases on the Fort Peck Indian Reservation as they seemed to fit better into their recommendations. Again, we must question the comparability issue and the objectivity of this approach.

And finally, approach six was to undertake a literature review of the studies concerned with economic values of forage on public and privately owned grazing lands in the western states. Professor Duffied uses a ratio established in New Mexico and then assumes the same ratio will apply to Montana. I don't know how many of you have visited New Mexico and its grazing lands, but there is a very serious question of comparability of Montana grazing lands and New Mexico grazing lands that Professor Duffield does not attempt to address.

In conclusion, I would urge you to study the preliminary analysis by Montana State University economists and by the Pepperdine University economists. Both are very credible sources and provide an additional perspective to Professor Duffield's. Our concern here is more time is needed to properly evaluate and insure that all factors are considered when establishing fees particularly in the area of grazing.

There is no questions that the fees on surface lands, state lands, need to be reviewed extensively in the future and should comply with the constitutional requirement to the school trust. However, "fair market value" alone does not consider the long-term protection of the resource itself. Maximizing return over the long-term, considering the resource protection factors, is a better approach. It is premature and almost appalling that one study should be handed out as the gospel,

then used to codify fees in one case or recommend fees in another case to the State Land Board.

Much work needs to be done on this bill and on this issue before final recommendations can be made that will be based on sound, objective, factual information. More time is required and the decision should be reached through a democratic process that insures that all interest--the school trust, the land, and the lessees and state land users--are considered. Thank you, and I urge a "do not pass" on S.B. 424.

SENATE TAXATION
EXHIBIT NO. 9
DATE 3-19-93
BILL NO. SB 424

CHAIRMAN HALLIGAN AND MEMBERS OF THE SENATE TAXATION COMMITTEE:

MY NAME IS TOM LOFTSGAARD. I AM CHAIRMAN OF THE LAND MANAGEMENT COUNCIL. WE ARE AN ORGANIZATION OF LESSEES OF SCHOOL TRUST LANDS. WE OPPOSE SENATE BILL 424.

WHAT IS FULL MARKET VALUE? IS IT THE VALUES SUGGESTED BY THE ECONOMIC ANALYSIS OR QUOTE "DUFFIELD STUDY". MONTANA CODE ANNOTATED 77-1-101 STATEMENT OF POLICY: IT IS HEREBY DECLARED TO BE IN THE POLICY OF THE STATE, THAT IN THE INTEREST OF ACCOMPLISHING A **SUSTAINED** INCOME FOR THE SCHOOLS, ETC.

AT SOME TIME IN HISTORY OUR LEGISLATURE RECOGNIZED THE VALUE, BUT ALSO THE LIMITATIONS OF OUR AGRICULTURAL AND GRAZING LANDS RESOURCE. YOU CAN NOT EXPECT LAND TO BE A SOURCE OF UNLIMITED WEALTH, BUT IT CAN BE A SOURCE OF NEVER ENDING WEALTH. WITHOUT A FAIR RETURN, THE LESSEES OF STATE AGRICULTURAL AND GRAZING LANDS WILL NOT BE ABLE TO MAINTAIN EVEN THE PRESENT REVENUES TO THE SCHOOL TRUST.

DEEDED LAND SUBSIDIZES THE STATE LEASES IN OUR AREA. BECAUSE THE DEEDED LAND IS INDISPUTABLY BETTER QUALITY, IT RAISES OUR COUNTY AVERAGE SO THE STATE OF MONTANA REALIZES MORE PROFIT FROM THE FARM PROGRAM.

ACCORDING TO U.S.D.A SOIL CONSERVATION SUPERVISOR STAN FRENCH, 61 PERCENT OF THE CROPLAND IN DANIELS COUNTY IS HIGHLY ERODIBLE SOIL. NINETY PERCENT OF THE STATE CROP LAND IN DANIELS COUNTY IS CLASSIFIED AS HIGHLY ERODIBLE SOIL. THE FEDERAL GOVERNMENT HAS MANDATED THAT THE EROSION OF OUR CROPLAND MUST BE REDUCED TO A TOLERABLE LEVEL. WE MUST HAVE AN INDIVIDUAL CONSERVATION PLAN AND BE PROPERLY APPLYING THAT PLAN BY

JANUARY 1, 1995. THIS PLAN CAN AND WILL CHANGE THE WAY WE FARM. IT WILL MOST LIKELY INCREASE THE COST OF FARMING. WE WILL NEED TO USE MORE CHEMICALS INSTEAD OF TILLAGE. THIS WILL REQUIRE SOME ADDITIONAL INVESTMENTS IN EQUIPMENT. OUR SEEDING AND SPRAYING EQUIPMENT WILL REQUIRE THE BIGGEST CHANGES.

HERE IS AN EXAMPLE OF VERY MINIMUM AND AVERAGE RETURNS OF ARMING AN ACRE OF HARD RED SPRING WHEAT STATE CROPLAND IN OUR AREA:

PER ACRE COSTS:	
SUMMERFALLOW 3 times at $4.00	$12.00
SEED, SEED TREAT AND CLEANING	$4.49
SEEDING	$6.00
SPRAYING	$4.00
HARVEST	$12.00
TOTAL COST PER ACRE	$38.49
PER ACRE RETURNS:	
21 BUSHELS (a.s.c.s ave yield) x 3.14	$65.94
STATE 1/4 SHARE	$16.49
LESSEE'S SHARE	$49.45
PER ACRE COST	$38.49
LESSEE REVENUE AFTER COSTS	$10.89
PRICE SUPPORT PAYMENTS FROM U.S.D.A	$15.35
STATE SHARE OF PRICE SUPPORT	$3.84
LESSEES SHARE	$11.51

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STATE SHARE FROM CROP	$16.49
STATE SHARE FROM U.S.D.A PRICE SUPPORT	$3.84
TOTAL STATE SHARE	$20.33
LESSEE CROP SHARE AFTER COSTS	$10.96
LESSEE SHARE FROM U.S.D.A PRICE SUPPORT	$11.51
TOTAL LESSEE SHARE	$22.47

THE FEDERAL GOVERNMENT IN ITS EFFORTS TO REDUCE THE DEFICIT, IS PLANNING TO HAVE ALL SUPPORT PAYMENTS ELIMINATED IN THE 1995 FARM BILL.

THIS IS A VERY BASIC EXAMPLE. I AM TRYING TO ILLUSTRATE THAT THE POTENTIAL FOR ANYONE TO PAY MORE WITHOUT CUTTING COSTS IS IMPOSSIBLE. THE ONLY COSTS THAT CAN BE CUT ARE SUMMERFALLOW AND SPRAYING AND **BOTH OF THESE WILL RESULT IN A DIRECT REDUCTION IN YIELDS AND WILL NOT ACCOMPLISH A SUSTAINED INCOME FOR THE SCHOOL TRUST.**

WE ARE OPPOSED TO GIVING THE STATE LAND BOARD THE AUTHORITY TO SET RENTAL RATES. THIS WOULD BE TOTALLY SIDESTEPPING THE DEMOCRATIC PROCESS. WE FEEL THE LEGISLATURE BEING A MORE DIVERSE BODY WOULD BE MORE REPRESENTATIVE OF THE STATES INTERESTS AS A WHOLE. THANK YOU.

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-19-93
BILL NO. SB424

An Preliminary Evaluation
prepared by
Terry L. Anderson and Myles Watts
Professors of Agricultural Economics and Economics
Montana State University[1]
of an
Economic Analysis of the Values of Surface Uses of State Lands[2]

I. Introduction

The pricing of services from governmental lands at both the state and federal levels is controversial because governmental agencies that control these lands are not subject to the same market forces as the private sector. Private land owners presumably maximize their wealth by getting the most value of their assets. Governmental land managers, on the other hand, are subject to political pressures from a variety of special interest groups who would like to pay less than the resource is actually worth. Because the political land managers do not directly benefit from maximizing asset values and because competitive bidding does not exist for all public resources, there is reason to expect that state and federal governments will not obtain full value from resources under their control.

Unlike most governmental lands that are managed for multiple uses, school trust lands were set aside to generate revenues for public education. Therefore a failure to maximize the value of these lands constitutes a violation of the trust responsibility of the state. Collecting less than lands are worth clearly reduces revenues for schools. Less obvious but just as important is the fact that charging more than uses are worth can leave lands idle and also reduce revenues. For these

reasons it is crucial that the Montana Department of State Lands (DSL) carefully consider its land pricing policy.

It should be noted at the outset that this is a preliminary evaluation. We have only seen the final report prepared by Duffield and Anderson and have not yet obtained the data summarized in that report. Moreover, due to short notice, we have not had sufficient time to fully evaluate all aspects of the Duffield-Anderson Report.

II. Determinants of Grazing Fees

Determining the "fair market value" of grazing leases is complicated by the fact that lands are of different quality and that the lessor and lessee contribute different inputs to the production process. Generally we would expect the lease price received by the lessor to be positively related to livestock prices, alternative forage costs, and the value of lessor-provided inputs (e.g. fencing, water development, and weed control) and negatively related to length of the lease and lack of access control by the lessee.

The D-A Report attempts to gather information on private lease prices and compare them to state land lease prices. Given that lease prices depend on a number of variables, it is necessary to control for these in any comparison. The D-A Report makes a number of comparisons, but fails to adequately control for the many variables that could explain differences in lease prices within the private sector or between the private and public sectors. In some cases the D-A Report simply compares lease prices on private and public lands with leases greater than five years, no fence maintenance services, and dryland. In other cases the D-A Report compares

state land lease prices across states. In our opinion neither of these approaches has much credibility because neither adequately controls for important variables.

The best method of controlling for the many variables that affect lease prices used in the D-A Report is the "hedonic pricing model." This model attempts to estimate a statistical relationship between private lease prices and the variables mentioned above. The "hedonic pricing" method they use has been criticized in the economics literature because it fails to sufficiently distinguish between demand and supply variables that enter into a final determination of a market price. These criticisms aside, in order for a hedonic pricing model to be a useful policy tool, it must be a good predictor. Their "complete model" (see Table 4-17, 33) reports an "adjusted R^{2}" of 0.261. This means that only 26% of the variance in lease prices is explained by the variables they use, and raises the question of what accounts for the other 74% of the variance. In other words, their model does not do a good job of explaining what determines private lease prices and therefore cannot do an adequate job of predicting what state lease prices should be.

III. Evaluation of the Hedonic Model

The main reason that the D-A Report fails to explain variances in private lease prices is that the data used do not adequately control for the many variables that influence leases. For example, to capture the impact that landowner provided inputs might have on lease prices, the D-A survey asked whether the landowner contributed to the costs of fencing maintenance, weed control, and water development. I did not ask how much the lessor contributed to fence maintenance and water development,

but it did ask how much the tenant and landowner contributed to the costs of weed control. The data on noxious weed control, however, were not used in the statistical analysis, and the D-A Report does not explain why.

To understand the impacts of not including the costs of lessor-lessee contribution, suppose that the lessor provides for all fence maintenance and this is worth $2 per AUM to the lessee. All else equal, the lessee would be willing to pay $2 more for this lease. On the other hand, if the lessor contributes only $0.05 for fence maintenance, the lease would only pay an additional $0.05. In the D-A analysis both of these would be reported as a lessor contribution, but there is no way to differentiate between the two. Therefore it is inappropriate to use this hedonic price model estimated from private lease data to predict what state grazing fees should be.

It is important to note that the noxious weed variable is removed from their "reduced model" because it is not found to be significant. Such removal, however, is inappropriate in a predictive model where the variable is expected to have an impact. Clearly a lessee would prefer a lease without a weed problem particularly if the lessee must pay for weed control as the is the case with state lands. Moreover, the usual statistical test for determining whether a variable is significant is based on the probability that the coefficient on the variable is zero. Using this standard approach, the probability the coefficient on noxious weeds is zero is about 17% and the probability it is not zero is 83%. The noxious weed variable should not be omitted from the model.

Even though control variables for fence maintenance and water development

are found to be significant, the use of the "dummy variable" technique is inappropriate for predictive purposes. The D-A Report enters a 1 if the landowner participates in the costs and 0 if not. The appropriate statistical measure would be the degree of participation. Therefore it is not surprising that the D-A Report can not adequately predict private lease prices.

Another problem with the D-A method of accounting for fencing contributions is that they only ask if the landowner participated in maintenance costs; they do not determine whether the landowner made the initial investment. This becomes particularly important on state leases where there are not fences. On private leases it is typical for the landowner to provide the initial cost of the fencing because it is permanently attached to the land. However, on state lands, the lessee is responsible for fence construction which would reduce the value of a state grazing lease, all else equal.

The D-A Report does not control for access which is likely to be an important determinant of the grazing fee. We can infer this from the amount of effort agricultural interests were willing to put into their fight to keep recreationists off state lands leased for agricultural purposes. Moreover, D-A find that lessees were "willing to pay" as much as $1.13 more for private leases without public access. If state lands have public access, at least this amount must be subtracted from the "fair market value." Such an adjustment is not made by D-A and is not included in their model.

IV. Cattle Prices and Grazing Fees

The D-A Report is critical of basing grazing fees on cattle prices. This criticism

is based on their regression analysis reported in Table 4-45 (57) which shows that 77% of the variance in private lease prices can be explained by beef prices between 1969 and 1991, but that only 10% can be explained between 1980 and 1991. One possible explanation for the big difference between the two is the small sample (12) for the latter period. Given that beef prices explain more variance in the long term than does the hedonic model produced by D-A, there is reason to believe that it may be a better predictor. Data are available to do a more sophisticate statistical analysis of the relationship between beef prices, and grazing fees and preliminary results show this is a promising approach.

V. Competitive Bidding

The D-A Report suggests that a major reason for lower grazing fees on state lands is the lack of competitive bidding. They report survey results that many ranchers do not want to bid against their neighbors, concluding that this effectively provides sufficient collusion to depress grazing fees. On the other hand, their survey results show that 22% to 36% of those surveyed are willing to bid against their neighbors, yet only 8% of the leases have more than one bid. These statistics appear inconsistent. If so many are willing to bid and if grazing fees on state lands are so far below the fair market value why aren't there more bids?

An explanation for the lack of more than one bid on 8% of the state lands is that these leases are not worth significantly more than the minimum of $4.17. If there are some lands where the grazing is worth far more than $4.17, we would expect more competition for them. The fact that the average competitive bid is $8.34 (40) may

indicate that some lands are worth more. For example, if state land is near an urban area, the forage for "hobby farmers" may be worth much more than it is for the typical Montana cattle rancher. In short, the fact that only 8% of state lands receive only one bid tells us little about whether tacit collusion is holding down state grazing fees.

VI. Comparison with Other States

The D-A Report compares Montana state land grazing fees to other states and concludes that "Montana is toward the lower end of the scale in terms of the ratio of state grazing lease rates as a percentage of market value." Table 1-12 reveals that 8 of the 14 other states have ratios near or below Montana's; only 6 other states have ratios higher than Montana's. No statistical analysis is provided by D-A.

To make comparison with other states valid, it would be necessary to control for the same variable discussed above. Do other states provide or share in improvements; are other states less urban; do other states have public access; how do other states deal with drought conditions? Until question such as these are addressed, comparison with other states is of little value in predicting what Montana's grazing fee should be.

VII. Conclusion

It is important that Montana maximize the value of its state lands especially to the extent that these lands were specifically set aside to support public education. The problem is determining what is the value maximizing price to charge for various uses. If the state decides to raise grazing fees significantly, it may discover unaticipated impacts. For example, under current practices there is little or no monitoring of leases.

If fees are increased to disipate profits from grazing, the lessee will have more incentive to overstock. Not only will this reduce long term productivity of the range, it will ultimately reduce the revenues from leasing. This scenerio would require that the state increase monitoring expenditures thus offsetting potential revenue gains.

It is wise for the DSL to study this issue in depth, but the D-A Report does not provide an adequate basis for changing the state law regarding the grazing fees. The statistical analysis does not predict very well what factors determine private grazing fees and is not adequate to predict what state grazing fees should be. The D-A Report does present evidence that suggests that state grazing fees may be below fair market value, but additional statistical analysis is necessary to determine what that fair market value is. Before state law is changed in a way that can significantly disrupt an important sector in the state's economy and potentially disrupt revenues and expenditures associated with grazing, more careful analysis should be performed.

1. The ideas expressed in this evaluation are those of the authors and not necessarily those of Montana State University.

2. The report under evaluation here was done for the Department of State Lands by John Duffield and Bruce Anderson, *Economic Analysis of the Values of Surface Uses of State Lands*, Bioeconomics, Inc., Missoula, MT, February 1993. This evaluation covers on "Task 3, Fair Market Value for Grazing Leases." Hereafter this report is referred to as the D-A Report.

SENATE TAXATION
EXHIBIT NO. 11
DATE 3-19-93
BILL NO. SB424

PEPPERDINE UNIVERSITY

SCHOOL OF BUSINESS AND MANAGEMENT

REPORT TO THE MONTANA STOCKGROWERS ASSOCIATION

CRITIQUE OF THE REPORT ENTITLED ECONOMIC ANALYSIS OF THE VALUES OF SURFACE USES OF STATE LANDS, BY JOHN DUFFIELD, BRUCE ANDERSON AND CHRIS NEHER

AUTHORS OF CRITIQUE:
Dr. Gerhard N. Rostvold
Dr. Thomas J. Dudley

It is the primary purpose of this report to present a preliminary analysis and evaluation of (1) the economic market model, and (2) the statistical model utilized by Professor Jon Duffield and his colleagues in their February 1993 report to the Montana Department of State Lands. Our analysis and evaluation of the economic/market and statistical models used to support the final conclusions of the study program will be confined to the question of the full or fair market value of the forage produced on state school trust lands in Montana. In other words, are state grazing leases in Montana priced at fair market value?

Our work program has centered upon a review of the Summary Report, Economic Analysis of the Values of Surface Uses of State Lands, and the TASK 3 Report, Fair Market Value for Grazing Leases. Both reports (henceforth to be referred to as the Duffield Reports) were published under date of February 1993.

CONCLUSION OF THE DUFFIELD REPORTS CONCERNING THE ADEQUACY OF CURRENT STATE LEASE RATES IN MONTANA

The conclusions drawn with respect to the adequacy of current lease rates for grazing on state school trust lands in Montana were set forth in the TASK 3 Duffield Report (p. 65) as follows:

5.4 CONCLUSIONS.
As a result of an intensive (and extensive survey of Montana ranchers concerning grazing lease rates and four additional methods of analysis, we conclude that current state lease rates are much lower than current fair market value. Lease rates on Montana DSL grazing leases currently average $4.24 per AUM. The preceding analysis suggests that fair market value for these leases is on the order of $7.50 to $8.50 per AUM.

METHODOLOGIES UNDERLYING THE CONCLUSIONS DRAWN IN THE DUFFIELD REPORTS

Professor Duffield and his colleagues used six specific approaches to estimate a current fair market value for state grazing leases in Montana. The six approaches are described in the Summary Report (pp. 17-18), and the TASK 3 Report along the following lines:

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT part of 11
DATE 3-19-93
SB-424

REPORT TO CONGRESS

New Perspectives On Grazing Fees And Public Land Management In The 1990's

Part I - An Agenda For The 1990's

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

GERHARD N. ROSTVOLD
Lecturer in Economics

and

THOMAS J. DUDLEY
Professor of Quantitative Methods

May 1992

PEPPERDINE UNIVERSITY
Graduate School of Business and Management

SENATE TAXATION
EXHIBIT NO. 12
DATE 3-19-93
BILL NO. SB 484

March 19, 1993

Mr. Chairman and members of this committee. My name is Steve Roth. I represent the IX Ranch Company, a family owned, Montana corporation, from Big Sandy. I am a graduate of MSU and have been actively engaged in ranching for the past 22 years.

I believe the impetus for this legislation is a report developed by Bioeconomics of Missoula. This report lacks the integrity necessary to develop legislation.

COMMENTS

In terms of lease rates for agriculture, in particular grazing, applying "market" value to a renewable resource encourages poor resource management. Short lease periods, high lease costs and uncertainty of renewal obligate the lessee to obtain the highest return for the least investment. Assigning a "productive" value to the resource, based on the lands ability to produce should be used to determine grazing fees. Although this method may not bring as much short term revenue, it insures a sustainable income while husbanding the resource.

Bioeconomics' analysis assumes wildlife on state land never go onto private land. The opposite is true since the water, preferential grazing and cover are primarily on private land, not state land. This is especially true in the winter months.

There are no lessee costs assigned to weed and rodent control or fire suppression.

Only scientific data from other states has been presented. Why was no scientific range data from Montana been included when a great deal exists? There is not one Montana study of grazing lease rates cited. No data was presented to compare range **condition** of private leases to state leases. Private leases tend to be over grazed and in poor condition in North Central Montana.

While briefly mentioned, STOCKWATER is the single most limiting factor on the ranch's state leased land. There is no mention of stockwater or its development on deeded land at accommodates grazing on state lands.

There is no evidence that increasing the staff of the Department of State Lands, as a result of higher grazing fees, to annually monitor grazing would result in a net increase in income to the school trust or preserve the resource.

There is no discussion as to whether or not increased fees and other proposed changes will discourage the lessee from investing in improvements on state land. The present fee formula does.

State lands in western Montana are vastly different than those in North Central Montana due to different soil types, growing seasons and precipitation levels. The report does not recognize this.

In Montana, lessee's of state land are required by law to allow licensed hunting on those state lands. The report does not consider the many costs of allowing this hunting.

In general, this report gives very little, if any, thought to the perpetuation of the basic resource-the land and its forage cover. This aspect should be a major concern in this "environmental" age.

The following are actual expenditures by IX Ranch Company on its state leased lands:

NOXIOUS WEED CONTROL

In cooperation with Dow Chemical, IX Ranch has mapped its Leafy Spurge population. As a result, the ranch has been able to estimate the cost of Leafy Spurge control on its state leased land. Over a 3 year period, from 1990 through 1992, control on approximately 280 acres amounted to $16,873 for chemical and $10,045 for application; a per year total of $8,843 or $31 per acre spent to control Leafy Spurge on state lands.

The ranch has been attempting to control this noxious weed since 1960. The tenacity and propagation by wild life of Leafy Spurge, together with the increased costs of chemical and application (Tordon 22K & helicopter), will continue to escalate the cost of leasing state land.

Stockwater Development

From 1988 through 1992, IX Ranch, with the approval of the Department of State Lands, has completed stockwater developments consisting of 3 wells, 8.25 miles of pipe line and 14 stockwater tanks on state land alone at a total cost of $57,700. These are complex systems, electrically powered by line or generator, with pressure tanks and automatic floats on all tanks to conserve but insure water not only for livestock but wildlife.

In 1992, the ranch spent $28,786 on stockwater development just on state lands, serving to better distribute grazing on approximately 3,840 acres. Per acre cost was $7.50 or $26.25 per AUM. This amount does not take into consideration annual fuel and electricity costs for these developments or maintenance and repair costs of other stockwater developments on state land.

Nor does the above account for expenditures on stockwater development and maintenance on private land that also accommodates grazing on state land. Since 1955, the ranch has completed 52 stockwater developments on its state leased land. This is evidence of how poorly watered the state land is. In 1993, the ranch plans to install two additional stockwater tanks requiring over two miles of pipe line.

FENCING COSTS

IX Ranch hires a fencing contractor to do much of its fencing and fence repair. Contract fencing repair costs for the ranch average $212 per mile for labor and equipment and $39 per mile for materials. To graze its state leases the ranch maintains over 86 miles of fence.

RODENT CONTROL

Required by the state to control prairie dogs on its leased land, the ranch estimated, in 1991, 188 acres of prairie dog towns on its state leased lands. Federal law now prohibits above ground poisoning. No other effective means of control has been found. In 1992, these towns were found to be increasing at the rate of 20% per year. This further decreases the value of the grazing lease as these prairie dog towns completely denude the ground.

FIRE SUPPRESSION

Annually the ranch donates $730 to the local volunteer fire department for fire suppression on its state leased land. This does not include the cost of ranch labor and equipment for fire suppression on state land.

NON-USE

In 1992, lack of stockwater, on the ranch's state leased lands required a 26% (660 pairs) reduction in the ranch's cow herd. Loss of income from the forced sale of these calves in May was $165,000.

SUMMARY

In 1992, IX Ranch spent over $38,000 in improvements, maintenance and repairs on its state leased land. This amount is 86% of the ranch's 1992 lease fee. Adding these expenditures to 1992's lease cost of $44,206 increases the ranch's cost per AUM to $7.74.

Agriculture is extremely capital intensive. The ranch's "Return On Assets" averages less than 3%. To continue to husband the state's land and make necessary improvements that enhance and stabilize the resource, grazing fees must not reach a level that discourages good range management practices. Increasing fees to a fair market value will cause degradation of this valuable resource by creating a situation in which the lessee must get everything out of the lease without investing anything in return.

I ask this committee to consider the impact upon the resource first and the state's affinity for money second. Using the existing formula format to establish a reasonable fee based on the lands ability to **produce**, rather than fair market value, will continue to encourage lessee's to invest in stewardship and enhancement of the state's leased land.

Thank you for allowing this testimony.

SENATE TAXATION
EXHIBIT NO. 13
DATE 3-19-93
BILL NO. SB424

SENATE BILL NO. 424 by Blaylock by Request of the Senate Education and Cultural Resources Committee

Chairman Halligan and members of the Senate Taxation Committee:

My name is Steve Carney. I am a farmer from western Daniels County and am a lessee of School Trust Lands. My purpose in appearing before this committee is to share with you my observations of what this bill will do for the State of Montana. Montana has in excess of five million acres of state lands and is one of the few that has maintained its basic land grant of state lands today. We are apparently happy with the retention of the great bulk of our Land Grant. But it does present us with problems as considered in Senate Bill 424.

The study conducted by Dr. Duffield seems to have the premise that cropland and rangeland owned by the state has the same value for leasing purposes as privately owned land. I was unable to locate any such analysis when everything is considered. The basic school sections were sections 16 and 36 in each township. But what happened was that in many cases you had "homesteaders or "squattors that settled on 16 and 36 before they were designated as state land. In other cases you had Indian Reservations take over 16 and 36 as well as the National Forst Reserve areas. Congress says we have a problem, so they amended the Enabling Act and gave the various Board's of Land Commissioners the right to select "in lieu" of section 16 and 36. The "in lieu" selections were to be as contiguous as may be to section 16 and 36. This was not done and created a problem of misdistribution of state land between counties. The argument that one piece of land is the same as the piece of land down the road as Dr. Duffield suggests does not prove itself when the land is put through a soil survey analysis. The people that earn their living from the soilknow that land does have very distinct production capabilities. My understanding of the homestead days of Montana lead me to believe that private individuals usually made the first selections of land in any given area. For example, the ranchers usually were looking for a water supply and a farmer was looking for productive land and the lay of the land or how hilly it was. The Land Commissioner usually made

his selections after the rancher and farmer. This leads me to believe that the land selected by the state was in many cases a "second choice" situation. In my experience I have noticed that the better land the state now owns they obtained from being in the Farm Loan business and the homesteader lost his land to the State. Make no mistake, the State does have some excellent agricultural land and it has had outstanding care while under the rental status. Most rentors of state land are top-notch operators and give the state land the same consideration and care they give their own private land. Really they operate uder the premise that "you take care of the land and it will take care of you." As a share cropper, I also must have a margin to perform the productions factors needed to acheive satisfactory yields for myself and the State. Dr. Duffield's report was based totally of the potential for increasing revenues on state lands and failed to take all factors into consideration.

*FACTORS AFFECTING STATE LAND LEASES:

1. Many agricultural leases also have grazing lands that cannot be farmed or grazed, yet we pay a grazing lease payment on them. Lack of water would be the main reason for this. The study failed to mention that I must take money from my crop share to pay the grazing rental fee. The wildlife are the primary beneficiaries of the grazing.

2. Much of the grazing land in our area is polluted with club moss. Grazing leases should have this considered when the evaluation is done every 10 years. Many private landowners renovate and reseed their pastures to obtain the full value of the land. S.B. 424 wants "full market value" but fails to mention how to improve the land to acheive it as private leases most often do.

3. As mentioned earlier, many grazing leases do not have water for stock. In our area most pastures have stock ponds that were dug for impounding runoff. To the best of my memory, we have had no runoff since 1982 and most dugouts and dams are dry. The only effective way to utilize these lands is to haul water to the stock. This involves extra money and time as the average cow will drink 15 gallons a day during the summer. Most private lands would be willing to dig a well to solve this problem we have.

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4. Winter and Spring wheat yields- As you probably know spring wheat yields are lower than winter wheat yields. Therefore the rentor has fewer bushels to share with the state or pay farm and ranch expenses. We are supplying you with a copy of information taken form the Montana Agricultural Statistics books for a 10 year period from 1982 thru 1991. This chart shows the respective yields of winter and spring wheat in the 18 counties listed which contain the majority of agricultural state land acres. The spring wheat yield is only about 80% of the yield of winter wheat over this 10 year period. The primary winter wheat area is the Triangle Area and the primary spring wheat area is the northeast corner of the state. Dr. Duffield fails to mention this in his report of which I believe should have been a major consideration. For example a winter wheat yield of 25 bushels per acre times the 33% cropshare would return 16.75 bushels to the rentor while a 20 bushel spring wheat yield times the 25% cropshare would only return 15 bushels to the rentor. This would have an effect on what "full market value" is. This should be a factor when comparing different state's cropshares with ours as they most often are higher production winter wheat areas.

5. The agricutural lessee must pay to deliver the state's share of the crop to the nearest elevator. With rail line abandonement we are finding that a longer haul must be made to deliver the grain, thus adding more expense.

6. Rail transportation went up to 99 cents at Scobey this past year to deliver one bushel of grain to the west coast. The State of Montana and the producers are captive shippers as has been proven in the McCarty Farms case which is still in the courts with Burlington Northern and their army of lawyers fighting it. This case proves that Nebraska and Oklahoma, as Dr. Duffield often compares us with are getting their grain shipped cheaper than we are, yet going farther distances. This results in lower returns to the state and the rentor.

7. All cost associated with farming land have been increasing from gas, diesel fuel, parts, cost of machinery, labor, chemicals, fertilizer and any improvements that would be associated with the land. These factors are cited so you committee members can be alerted to the fact that an economic squeeze does exist and increased

rental rates will add to that squeeze. We have enclosed a chart for the past 4 years showing the average net farm profit of approximately 160 farmers and ranchers in our area. You can see that we are not getting rich and increased rates on state lands would make it worse.

8. On March 2, 1993 a Montana sale for oil and gas leases was held in Helena. Of the 94 tracts advertised, only 26 sold for more than the minimum of $1.50 per acre. At about the same time, my brother and I leased lands for $10.00 per acre. So what is the full market value on oil leases? Why was this not included in the study?

9. When a comparison is made between state ag. land and privately owned ag land you have the value of buildings and their use that goes with the deeded land to the rentor of that land. The buildings may be granarys, machinery storage buildings or even residential homes. State agricultural land usually does not come with any buildings that would add to the value of the land to the rentor. Ask yourself which tract of land you would want, one with granaries, outbuildings and possibly a home for your use or just a bare piece of land with no improvements.

10. Elimination of preference rights would create total havoc in counties such asDaniels where the state owns 24% of the lands. To rent the land to someone else that bids only a fraction more than the current leasee could prove to be a detriment to the school trucst. Get rich quick schemes, taking everything from the land to pay increase rentals, enviornmental and economic impacts would occur. As can be seen by looking at the map, I know of no farm or ranch that would be a sufficient economic unit in western Daniels county withoutleasing state lands. There is no doubt in my mind that the ability to continue farming long term is in your hands. Balanced judgement and fairness should prevail in your decisions. Preference rights are needed both for the states long term benefit, as well as mine. How would you feel if you had good business in a rented building and were a good tenant if the landlord said that they were going to rent the building to the first person that would offer them a dime more at the end of your contract. How about tenured teachers that would be let go because the school district could find another teacher at less salary and you would not have the right to match

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their offer.

11. Below is the soil types most often found on state lands in Daniels and Roosevelt Counties as taken from the Soil Survey done by the S.C.S., B.I.A. and the Mt. Ag Experiment Station in 1980.

Turner Sandy Loam- class 4 soil,0-8% slopes -Well drained, droughty soil that has a surface layer of dark brown sandy loam 10 inches thick. It is formed in outwash and may be gravelly. If the soil is used for nonirrigated crops, it is limited by the hazard of soil blowing and by droughtiness.

Farland-Cherry Silt Loam- 2-8% slopes, Class 3 soil- deep, well drained formed in alluvium derived from sedimentary material. It is limited mainly by the hazzards of soil blowing and water erosion. This soil is in most of Daniels and Roosevelt Counties.

Typic Ustifluvents- Class 6 soil- erattically stratified gravellyloamy sand to silty clay

Adger Nobe Complex- Class 6- found in bottom lands which is limited mainly by the content of sodium and salts in the soils.

To my knowledge, there is no land in northeastern Montana that has class 2 soils. This would be the higher production type of soil. Also, rainfall is a big factor in yields. I have found out thru most of the 80's that it doesn't have to rain.

12. State Equalization Payments-

March 2, 1992

Mr. Larry S. Schaefer
Daniels County Assessor
Daniels County Courthouse
Scobey, MT 59263

Dear Assessor Schaefer:

The 1992 Special Session of the State Legislature reinstated the 8 percent "cut" for the State Equalization Payments and, therefore, we are mailing to each of the 18 counties their apportionment share.

The enclosed payment of $6,784 represents the 8 percent eliminated from the original disbursement in November, 1991 and totals $84,690 for the year for your county.

Please feel free to call if any questions should arise.

Sincerely,

Robert Ruchenbrod
Administrator
Central Management Division

/ns

cc: Dennis D. Casey

STATE LAND "IN LIEU" PAYMENTS

It is interesting to read Dr. Duffield's report concerning state lands located along roads so better access would be possible. He failed to mention that all roads along state lands were originally build and maintained with the taxes of local property taxpayers. It was not until the 1967 Legislature that a law passed called the State Land Equalization bill which provided that the State make payments to those counties with state lands in excess of 6% (6% represents sections 16 & 36 as tax exempt) of the total land area of that county. "In lieu" payments started in 1969 to be used for county roads and education of the children. These payments are to be in the same dollar amount as if the state land was in private ownership. The "in lieu" payments have been falling short in the 18 affected counties with only 59% received in 1991. Thus the burden of obtaining the extra money needed falls on the private land owners. A study submitted in 1959 indicated that the large amount of tax-free land does create an inequity which is borne by the private landowners. In Daniels and Valley Counties this burden will increase with the recent abandonment of the Scobey- Opheim branch line railroad. In western Daniels County, Peerless will lose approximately 30% of its funding for the school. This should be considered when determining "full market value" on state lands. The 33% crop share and $7.60-$8.37 per AUM Dr. Duffield' study suggests fails to take this into account.

STATE LAND REIMBURSEMENT FOR DANIELS COUNTY
from Daniels County Assessor

YEAR	PAID	REQUESTED	% PAID
1969	$37,967.55	$38,032.00	.9983
1970	$37,965.55	$38,032.00	.9983
1971	$57,420.00	$64,577.00	.8892
1972	$52,200.00	$70,182.00	.7438
1973	$52,384.00	$67,218.00	.7793
1974	$55,472.00	$67,129.00	.8263
1975	$59,762.50	$71,726.00	.8332
1976	$61,198.49	$75,365.00	.8120
1977	$61,858.95	$69,858.00	.8855
1978	$55,179.97	$61,021.00	.9043
1979	$70,159.00	$77,319.00	.9074
1980	$67,293.00	$77,337.00	.8701
1981	$69,923.00	$80,273.00	.8711
1982	$67,790.00	$80,655.00	.8405
1983	$84,671.00	$99,298.00	.9527
1984	$79,375.00	$93,577.00	.8482
1985	$86,278.00	$106,215.00	.8123
1986	$80,844.61	$103,980.00	.7775
1987	$78,621.00	$97,620.00	.8054
1988	$86,897.32	$117,483.00	.7397
1989	$82,804.00	$115,434.00	.7173
[illegible]	[illegible]	[illegible]	[illegible]

CONCLUSION:

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It is my earnest hope that S.B. 424 will not become a struggle between the Landlord or the State of Montana and the Tenants or us the farmers and ranchers because the tenants do not win many battles with the landlord. In this case the landlord is the entity with the ownership of the land and the tenant only has a piece of paper (lease) to show for his or her long efforts as the operator of the land. I would call us a sharecropper if my understanding of the word is correct. Most of the states have disposed of their land gratnt by the sale of the lands. Montana is apparently happy with the retention of the great bulk of their land grant. Only the good judgement of the legislature and the Board of Land Commissioners has kept a balance between divergent positions of the state and its renters. In one case a desire exists to have more revenue for the schools or the so called doctrine of"undivided loyalty"and in the other situation where a belief may exist that the rentoor is paying all the rent he can economically afford. Balanced judgement and fairness must prevail in the conflict between landlord and renter. We plead for that balance in our appearance before this committee. In reading Dr. Duffield's report, a lot of opinions were stated and I assume we are to believe them as facts. I feel that other important information should be given that could affect a person's well- being, and the states as well. I personally see nothing wrong with the current system on state lands. With all factors being considered, the state is receiving"full market value" from their lands now. It is my sinsere hope that this committee agrees with me and kills S.B. 424.

SELECTED INFORMATION FOR FARM & RANCH OPERATIONS IN NE MONT

FOUR–YEAR COMPARISON

AVERAGE

	1988	1989	1990	1991
FARM INCOME:				
NET SALE OF RESALE ITEMS	1,515	909	771	725
GRAINS, LIVESTOCK, ETC.	31,755	27,847	26,014	26,015
NET PATRONAGE DIVIDENDS	294	734	505	204
AG. PROGRAM PAYMENTS	24,850	14,699	22,595	21,149
CCC LOANS	4,764	1,503	3,852	6,836
CROP INSURANCE	8,898	3,406	9,172	2,899
CUSTOM HIRE INCOME	3,405	3,113	2,087	2,201
MISC. SCH. F. INCOME	2,147	3,928	2,393	2,982
TOTAL FARM INCOME	$77,627	$56,140	$67,389	$63,010
FARM DEDUCTIONS:				
CHEMICALS	2,054	2,287	2,359	2,134
CUSTOM HIRE	1,684	1,633	1,106	2,506
DEPRECIATION	9,293	9,522	7,980	7,095
FEED	2,355	2,797	2,907	1,941
FERTILIZERS	584	506	264	174
FREIGHT, TRUCKING	279	101	177	242
GAS, FUEL, OIL	4,268	4,373	4,550	4,983
INSURANCE	2,511	3,186	3,267	3,964
INTEREST	8,898	9,778	12,647	9,941
LABOR	864	1,015	913	884
RENT	3,332	3,543	4,875	5,565
REPAIRS	4,221	4,333	4,180	4,309
SEEDS	2,203	1,254	887	826
SUPPLIES	2,287	2,490	2,016	2,134
TAXES	2,737	2,598	2,858	2,934
UTILITIES	1,010	1,058	1,071	957
VETERINARY	257	289	291	237
LEGAL/ACCOUNTING	620	497	508	347
CCC LOANS REPAID/BASIS	6,053	1,454	1,658	1,900
CALF/CROP/WOOL SHARES	1,037	1,104	679	903
BUSINESS CAR/TRAVEL	453	494	584	491
DUES, FEES, SUBS., BANK	286	320	424	428
CCC REPAYMENTS			1,836	727
OTHER FARM EXPENSES	2,190	3,296	1,826	2,714
TOTAL DEDUCTIONS	$59,476	$57,928	$59,865	$58,338
NET FARM PROFIT/LOSS	$18,151	($1,788)	$7,523	$4,673

PREPARED BY: Tade Accounting

Land Board rejects man's bids for northeast Montana land

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — With a delegation of anxious farmers looking on, the Board of Land Commissioners Friday agreed to hold 29 leases of state land in northeast Montana at a quarter crop share, rejecting bids of one-third or more by John Sorensen of McCabe in Roosevelt County.

The board, consisting of the governor, secretary of state, auditor, superintendent of public instruction and attorney general, unanimously accepted the recommendation of State Lands Commissioner Dennis Hemmer, which he called the most difficult he has ever brought to the board.

Hemmer said Sorensen's bids were so high as to discourage proper agricultural practices.

Sorensen, 31, who farms 100 acres of wheat in Roosevelt County, unleashed a storm of hostility and protest when he bid on some 10,000 acres of cultivated school trust land currently leased to 36 ranchers, one in Sheridan County and the rest in Daniels County. All the lessees exercised their preference right to match the bids, which ranged from 34 to 38 percent of gross proceeds from crop production on the land, but 29 of them requested hearings to try to get the price back down to a quarter share.

Hemmer's report to the board Friday said that such a high crop share would not allow Sorensen to make a profit from the low-producing and highly erodible land.

The inability of a lessee to make a profit on state land prompts a high turnover in lessees and encourages them to "take short cuts in ... management of the land," Hemmer said.

For example, some farmers testified at bid hearings that a 38 percent crop share would force a farmer to eliminate some use of fertilizer, weed control measures, and waterways to control erosion.

Former Republican state legislator Dennis Nathe of Redstone told the board something should be done to prevent one person from "throwing out a bid" and then "walking away" and leaving behind a series of expensive hearings. He said legal expenses of the farmers protesting the bids probably exceeded a total of $7,000.

He said the idea was kicked around of letting Sorensen have the leases and "let him see if he could do it." His reference was to the argument that Sorensen would be incapable of farming that many scattered pieces of land at a distance from his home.

But then it occurred to the farmers that Sorensen could pick out the best 2,000 or 3,000 acres and drop all the rest, Nathe said.

Nathe said the farmers agree with a recommendation by Hemmer that the Lands Department be given authority by the Legislature to retain bid deposits when it's shown that the bidder has no intention of taking the lease.

However, Hemmer said his suggestion was prompted by two questionable bids elsewhere in the state, including a farmer harassing his neighboring brother-in-law. He would not have retained Sorensen's deposit, he said, since he believed Sorensen's intentions were honorable, if misguided.

"Good luck!" said Gov. Ted Schwinden of Hemmer's suggestion for deposit retention authority. Hemmer should first bring some options to the board, he said, since it's difficult to draw a line between serious and frivolous bids.

Milton Shipstead of Scobey, chairman of a group of lease holders, said farmers in the area were frightened because of Sorensen descending on them, and they also fear the Land Board and the system.

Tom Hagen of Scobey, one of the farmers Sorensen bid against, said most of the land in the area is poor, as indicated by the fact that the crop shares reported are quite low for the most part.

Hemmer said some of the land was poor and some was "fairly decent," but a daylong tour of the parcels left him with "very serious doubts" as to the wisdom of raising the lease prices above a quarter crop share.

The motion to leave them all at a quarter share was made by Secretary of State Jim Waltermire.

Sorensen told the Tribune earlier this month that Hemmer's recommendation amounted to a political catering to a "cartel" of farmers who had been "screwing the state" for many years.

He said he is convinced the land is worth a one-third crop share, and that he had a plan and financial backing to make a go of it.

If the land is so marginal that it's only worth a quarter share, it should be put back into grass, he said.

The board accepted Hemmer's recommendations on 11 other contested leases also, some of which involved increases to the amount bid. State Auditor Sonny Omholt tried unsuccessfuly to get the amount dropped on three.

In two instances, the board accepted Hemmer's recommendations of increased lease amounts in Hill County that the bidder had attempted to withdraw because of perceived intimidation.

Rambo Grain and Cattle of Gildford bid on leases held by Allen Woeppel of Havre and Orville Welsh of Gildford. After the Rambo grain elevators had holes chopped in them, Art Rambo asked to withdraw the bids, saying he feared he would end up with vandalism to his equipment.

Hemmer refused to let Rambo withdraw the bids. "The precedent of being terrorized out of bidding is just unacceptable," he told the Tribune.

Hemmer said he asked the current lease holders at the hearings if they knew anything about the vandalism. "They said 'no' under oath, so I guess I believe them," he said.

HILINE EXPRESS, THURSDAY, JULY 9, 1992-5

Tax base may erode in four county area

The Interstate Commerce Commission hearing in Opheim brought out some hard facts about the loss of taxes for the Scobey-Opheim area in the event that the railroad branch line were to be abandoned.

Peerless School, which continues to get the highest academic ratings in the state, will lose approximately 30 percent of its funding; the Opheim School is also going to lose about $14,565 if the Appellate Court rules that the line can be taken out.

The likelihood of the whole line being a candidate for abandonment in the future is a very real possibility, unless we keep our options open via the legislature and a four-county Transportation Authority.

In order to get that authority, it has to be voted upon in the November ballot ... and to get on that ballot means that 20 percent of the voters in the districts involved must sign petitions before August. Daniels and Valley counties are already working on the situation.

The county treasurer's report that in 1991, the Burlington Northern paid the following taxes on just the Bainville-Opheim line: Valley, $40,959.65; Daniels, $192,003.20; Sheridan, $137,127.57; and Roosevelt, $215,096, for a total of $585,186.42!

* * *

B

DATE 3-19-93

SB 424

10 year average yields (82-92)
from Mt. Ag Statistics

MONTANA

18 counties with over 6% state land
ww- winter sheat sw- spring wheat

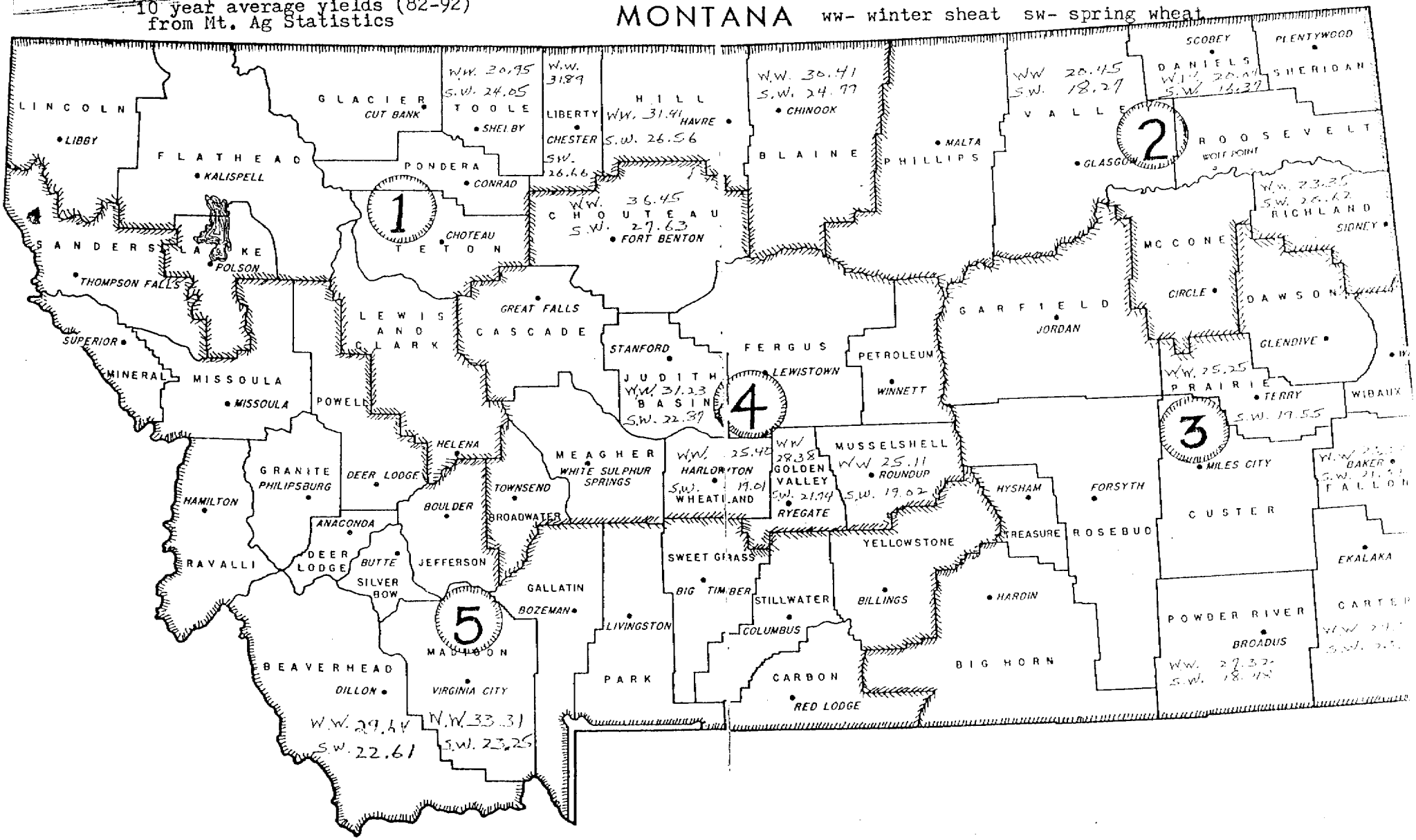
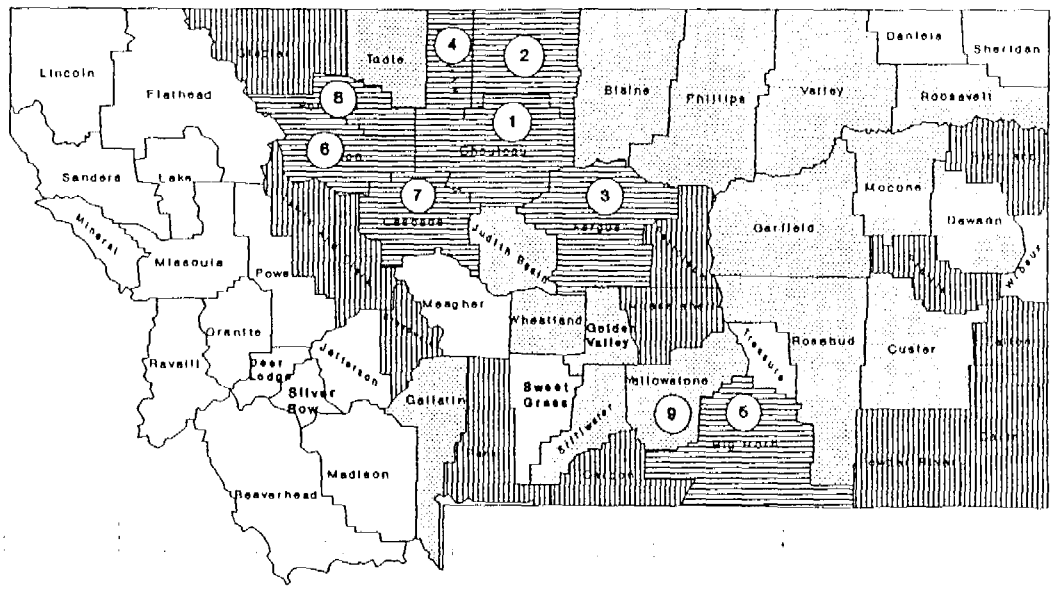


EXHIBIT 13
DATE 3-19-93
SB-424

WINTER WHEAT - 1990
HARVESTED ACREAGE

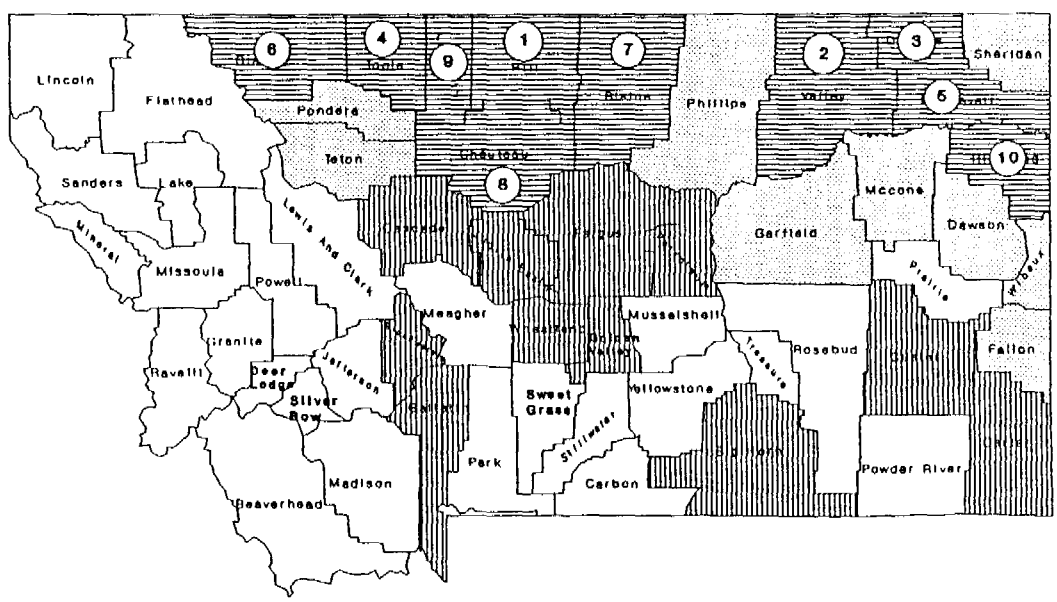


Numbers show ranking of top ten.

0-9,999 □ 30,000-89,999 ▨

10,000-29,999 ▥ 90,000+ ▤

SPRING WHEAT EXCLUDING DURUM - 1990
HARVESTED ACREAGE



Numbers show ranking of top ten.

0-9,999 □ 30,000-99,999 ▨

10,000-29,999 ▥ 100,000+ ▤

INFORMATION TAKEN FROM MONTANA AGRICULTURAL STATISTICS FROM 1982 thru 1991--TEN YEAR PERIOD

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	TOTAL ACRES STATE	TOTAL ACRES STATE AGRICULTURAL LAND	% OF STATE AGRICULTURAL LAND	1982 WW	1982 SW	1983 WW	1983 SW	1984 WW	1984 SW	1985 WW	1985 SW	1986 WW	1986 SW	1987 WW	1987 SW	1988 WW	1988 SW	1989 WW	1989 SW	1990 WW	1990 SW	1991 WW	1991 SW	AVERAGE WW	AVERAGE SW	YIELD
BEAVERHEAD	3326239	170	8.94	33	30	40	40	33.4	26.1	16	8	31	18	49	35	49	12	25	18	-0-	26	20		29	24.64	22.61	
BLAINE	4166459	7696	6.55	38	31	34.5	24	27	17.9	15.8	16	31.8	29	35	30	15	12	28	28	32	20	37		28	30.41	24.79	
CARTER	1483198	1786	6.81	33	21	33	19	30.1	19.7	21.8	14.9	22.4	15.9	35	24	8	10	21	20	24	24	17		33	24.63	19.95	
CHOUTEAU	2647697	56139	12.31	46.6	46.5	42.5	41	34.8	22.9	15.6	10.1	36	20.8	34	27	19	11	42	34	45.1	26	51		36	36.45	27.63	
DANIELS	1011914	103854	23.74	25	25.5	21.2	16	10.8	10.9	5.7	6.5	21	22.3	32	23	13	7	23	15	33	12	16		24	20.27	16.27	
FALLON	894403	9899	6.58	27	26.5	31	26.5	28.2	21.5	19	18.2	20.6	17.2	35	25	8	8	22	19	21	19	21		35	23.28	21.59	
GOLDEN VALLEY	498240	21477	4.48	37	25	23	14	20	12.7	9	5.6	28.8	20.1	32	24	18	11	25	14	31	17	30		37	29.39	21.74	
HILL	1583641	50096	9.59	48	25	39.5	36	134.7	14.2	14	10.4	33.9	31.2	45	38	16	12	33	25	35.1	28	42.7		41	31.41	26.56	
JUDITH BASIN	1895113	171.5	8.63	34	23	31	25	29.1	17.3	14.9	10.7	34.3	27.2	42	31	24	19	38	30	32	26	35.5		25	31.23	22.87	
LIBERTY	636E+	19194	8.66	40	34	30.5	35	29.7	12	11.6	7.5	35.1	30.1	33	29	14	9	35	33	43	32	51.1		45	31.89	26.66	
MUSSELSHELL	756967	2789	6.25	34	19	21	0	18.1	8	9	7	31	16	25	19	18	12	28	23	34	16	36		26	25.11	19.02	
POWDER RIVER	1406860	969	1.93	31	28	34	15	30.5	22.5	23.2	15.7	26.7	17.6	38	23	11	6	22	19	33	16	25		27	27.37	18.48	
POWELL	1748870	5391	6.46	32	24	25	20	29.2	18.1	14	15.4	24.3	15	36	23	9	7	21	27	31	18	33		25	26.25	19.55	
RICHLAND	5109711	2577	6.03	32	29	25	30	23.7	18.6	13.9	12	25	28.6	34	29	9	8	22	16	20	17	30		28	23.35	20.62	
TOOLE	4854704	1812.77	6.78	38	28.7	34	22.9	23.7	16.9	12.8	8	33.1	26	31.1	27	14	13	37	31	46.1	29	46		43	30.95	24.05	
VALLEY	3088062	2105.45	6.34	25	19.8	21.2	23	17.4	14.9	12.8	8.9	22.3	24.1	32	25	9	7	21	14	19	17	23		27	20.45	18.27	
WHEATLAND	921777	21119	8.85	33	25	29.5	16	19.5	14.8	11.9	5.9	28.1	20.4	37	31	20	9	28	24	26	16	27		28	25.42	19.01	
WIBAUX	1294980	14432	6.32	41	31.4	37	40	38.1	23	17	9.1	31	23	48	32	34	14	46	23	36	18	27		23	33.37	23.25	
				619.6	506.4	556.7	446.9	444.8	559.9	253.9	186.9	516.3	411.3	642	487	306	187	521	408	526	353	568		575			
YEARLY PER ACRE YIELDS				34.4	28.13	31.03	24.82	24.65	30.99	14.10	10.38	28.62	22.85	35.66	27.05	17	10.38	28.94	22.66	29.22	19.61	31.55		31.94			

W.W. WINTER WHEAT

S.W. SPRING WHEAT

The acres of state land, state agricultural acres and percent of state land may vary somewhat from the present situation. Figures that are current are hard to obtain.

80% of 33⅓ = 26.66
AS CENTRAL FED. SPRING WHEAT

SENATE TAXATION
EXHIBIT NO. 14
DATE 3-19-93
BILL NO. SB424

March 19, 1993

Members of the Senate Taxation Committee:

My name is Myron Halverson. I'm a farmer from Daniels County. Over half of the land I farm is State land, and I am worried about my future as a farmer.

I take care of the state land same as my own, no difference at all. I think we all have to look at not only what this land will return to us but the long term care of the land. The Duffield Study says that fair market value is 33½% cropshare. That is a 32% increase in what I'm now paying. This will change my bottom line from "black ink" to "red ink."

If I can no longer make a profit on this farm, I will be forced out of business. Larger farmers will take my place, no question about it, this is the trend. We've all heard of Big Bud tractors, huge machinery and Greytak. But.....will they have the long term care of the land in mind; or will they farm it for the best possible bottom line?

This land is fragile and it needs good care. Remember, in the west side of my county where I live, about half of the land is state land, this is a huge farm.

I would like to continue farming, and to do that I have to show a profit. If I could raise winter wheat and grow more bushels per acre, then there would still be enough left for me. Winter wheat just won't survive our winters. If I could get a decent price of 5 or 6 dollars a bushel I could give the state a bigger share. Low protein wheat in my home town of Four Buttes was $2.76 yesterday . If I farmed just out side of Great Falls, I'd get another $40 just in freight difference.

This is a big state, we can't all be lumped together like the Duffield study tends to do. (example-- page 18 bottom graph of the crooland report.) There are many differences. What will work in one county won't work in another. Each county should be looked at individually. You just can't compare irrigated with dryland farming.

I think we should leave the rental rates alone until the long-term effects can be established. Lets keep Montanans in Montana and build up a better state. I know I'd like to stay here, and I will if I can show a profit. My family and I will be here paying taxes. If I'm squeezed out, the big corporate farms that will take my place may not have the best interests of the State School Trust Lands in mind.

Sincerely,

Myron Halverson

Myron Halverson

SENATE TAXATION
EXHIBIT NO. 15
DATE 3-19-93
BILL NO. SB 424

CHAIRMAN HALLIGAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS LEROY NELSON AND I TEACH AGRICULTURE EDUCATION AT THE PEERLESS SCHOOL AND I ALSO REPRESENT THE LAND MANAGEMENT COUNCIL.

I BELIEVE SENATE BILL 424 WOULD ULTIMATELY BE DETRIMENTAL TO THE SCHOOL FUNDING SYSTEM. DANIELS COUNTY HAS 23.9% STATE LAND. IN THE PEERLESS SCHOOL DISTRICT, WE HAVE 50% OF THE ENTIRE DISTRICT OWNED BY THE STATE SCHOOL TRUST SYSTEM. LITTLE IMAGINATION IS REQUIRED TO SEE WHAT THIS DOES TO OUR TAX BASE. DEEDED LANDS ALREADY ARE CALLED UPON TO PAY A DISPROPORTIONATELY HIGH RATE OF TAXES TO MAKE UP THE DIFFERENCE. WE HAVE A SITUATION WHICH CREATES A VERY UNFAIR TAX BURDEN WITH SUCH A HIGH CONCENTRATION OF TRUST LANDS.

TO NEARLY DOUBLE THE GRAZING FEE WOULD BE VERY DETRIMENTAL PARTICULARLY TO OUR AREA AND TO OTHERS WITH SIMILAR CIRCUMSTANCES. TO CONSIDER THE INITIAL CAPITAL INVESTMENTS ASSOCIATED WITH FENCING, CORRALS, BUILDINGS, AND WATER DEVELOPMENT IS OF PARAMOUNT IMPORTANCE. THESE ITEMS ARE PROVIDED IN A PRIVATE LEASE BUT ON A STATE LEASE THE LESSEE HAS THE RESPONSIBILITY FOR PAYING THE ENTIRE INVESTMENT. THE STUDY BY DUFFIELD AND ASSOCIATES LIMITS ITS ANALYSIS TO FENCE AND WATER MAINTENANCE COSTS ONLY. NO CONSIDERATION IS GIVEN TO THE COST OUTLAY TO BUILD THE FENCE OR DEVELOP THE WATER.

IF PRIVATE GRAZING IS LEASED THE LESSEE IS PAYING FOR GRASS WHICH IS THERE AND IMPROVEMENTS WHICH ARE ALREADY IN PLACE. THE STATE OFFERS NO LANDLORD SERVICES. THE LESSEE IN A STEWARD LIKE

MANNER WILL REST A STATE LEASE PERIODICALLY EITHER BY REMOVING THE AUM'S FOR A PERIOD OF TIME OR BY REDUCING THE AUM'S. THIS PROVIDES FORAGE IN YEARS TO COME, WHILE ALL THE WHILE PAYING THE FULL AMOUNT OF THE AUM'S ASSESSED ON ANY GIVEN GRAZING LEASE. IF THE FORAGE IS DESTROYED IN ANYWAY BE IT FIRE, HAIL, INSECTS, OR WILDLIFE THE STATE LESSEE CONTINUES TO PAY THE RENT. IN THE STUDY PROFESSOR DUFFIELD STATES, "IT IS POSSIBLE THAT THE MONTANA FORMULA MAY PROVIDE A REASONABLE APPROXIMATION TO A FAIR MARKET PRICE." ALTHOUGH THE CURRENT PRICE PER AUM IS $4.24, BECAUSE OF THE PRECEDING REASONS AND EXAMPLES A STATE GRAZING LEASEHOLDER IS IN ALL ACTUALITY PAYING CLOSE TO DOUBLE THAT AMOUNT.

I KNOW OF MANY TRACTS OF STATE GRAZING LEASES WHICH ARE UNFENCED AND ARE COMPLETELY SURROUNDED BY FENCED DEED LAND. THERE IS NO WATER ON THE MAJORITY OF THESE LEASES AND GIVEN THE COST OF FENCING AND THE COST OF A WELL, THESE LEASES ARE TOTALLY WORTHLESS WITHOUT THE WATER ON THE SURROUNDING DEEDED LAND. THIS IS AN EXAMPLE OF MANY SUCH LEASES WHICH ARE MADE PRODUCTIVE ONLY BY THE PROXIMITY TO DEEDED LAND. THE STUDY DOES NOT MENTION ANYTHING ABOUT THE VALUE OF A TRACT OF STATE LEASE ISOLATED WITHIN A LANDOWNERS OPERATION. THE STUDY ALSO FAILS TO RECOGNIZE MOST OF THE SIGNIFICANT DIFFERENCES THAT EXIST BETWEEN STATE LEASES AND PRIVATE RENTAL AGREEMENTS.

I WOULD ASK THE COMMITTEE KILL SENATE BILL 424. THANK YOU FOR YOUR TIME.

SENATE TAXATION
EXHIBIT NO. 16
DATE 3-19-93
BILL NO. SB 424

norable Senate Taxation Commitee Members:

garding the Duffield Study, I believe there are many items that weren't ndidered that are very important for your committe to consider, while these nsiderations may not be in order of importance they all hopefully will be nsidered very carefully, by each committe member and will make a difference your recommendation on Bill #424.

I have both Private Leases and State Leases and would like to compare the fference. In 1991 because of the drought we had to haul our cattle to Fort lknap and we payed $10.00 a month per pair, but I was not able to graze my ate Leases at all and I still had to pay the Lease for grazing, plus the ivate Lease as well, the Private Lease that I have in Daniels County are also 0.00 per month. But because we were unable to use these Leases we don't pay r these Leases unless we are able to use them. We also had the same drought nditions in 1992 and 1993, this means that the State Lease Holder payed for ese years of grazing that they were unable to use because of the drought.

All the Private Leases we have we do not provide any fencing or fencing pair nor the cost of keeping water to the cattle.

The land owner completely assumes responsibility for our cattle from the me they are on his property until they leave, including any lost cattle.

I believe in the intrest of the school trusts, that we are paying a fair rket price for these Leases as the money generated off of the cattle stays in r county in the form of taxes which the majority of those taxes support our hool systems. There should also be consideration to the family farmers and nchers entered in this as well because they are getting less and less each ar and without them we will have no communities left. There has to be a ofit in these Leases to the Leasee to be able to provide them with the funds have good fences and water supply to the cattle and be good Stewards of ese Leases.

These Grazing Leases should be tied to the price of calves so the rancher not paying for an over priced Lease when calves go down. In the Duffield udy these Leases were at current Private Lease rates and took into nsideration irrigation and dryland and as near as I can tell averaged the ases to come up with the recommended Lease fee. There are several things at are wrong with this method, but two important ones are: Private Leases me down with the price of calves and I don't believe the Irrigated Land ould be averaged into Dryland Leases.

garding the Farmland Increase: Again I have Private Leases that vary from 3 of the crop to 1/2 the crop to $12.00 per acre Cash Lease. Each one of ese Leases are very different in that the 1/2 Lease the Landowner is oviding 1/2 of all the expenses and providing all of the grain storage and is equals out to be the same as my 1/4 crop I have with the State. The 1/3 are the Land owner is providing th grain storages for the grain I produce and does the Landowner of the Cash Lease.

would also like you to consider several studies that have been made showing that even with the price of calves that most ranchers are barely making it. The same is true for the farmers. Sadly there are Auction Sales in Montana ery day from farmers and ranchers that have went broke. These people have payed to much for land, cattle, machinery, or extented drought. Some of these Leases in the study undoubtedly were included in these figures. Just a few ars ago there were all kinds of ranches for sale when cattle prices went wn. In the interest of the school trust, I believe that the Leases currently are at fair market value. If we all go broke the state could be looking at tting even less then they are now. Once this bill is passed there would be means to adjust the fees for the Leases regarding these conditions I have talked about. Any type of increases in our Leases must have a provision in the aw so these Leases could be adjusted immediately.

Enclosing you know how the state costs have gone up in the recent years. The farmers and ranchers costs have also gone up, but our income can very greatly, the change in prices of our commodties and the risk of drought and other natural diasters that occur. We have to make a profit to withstand the years we don't. Incidently the 80s were mostly losses due to prolonged drought. er the long period of time these Leases have to be fair to both parties in e interest of everyone concerned. Please consider these points that have been made.

Barry Handy
Phone 783-5351
Scobey, Mt. 59263

average of 162 Farms

SELECTED INFORMATION FOR FARM & RANCH OPERATIONS IN NE MONT

FOUR–YEAR COMPARISON — AVERAGE

	1988	1989	1990	1991
FARM INCOME:				
NET SALE OF RESALE ITEMS	1,515	909	771	725
GRAINS, LIVESTOCK, ETC.	31,755	27,847	26,014	26,015
NET PATRONAGE DIVIDENDS	294	734	505	204
AG. PROGRAM PAYMENTS	24,850	14,699	22,595	21,149
CCC LOANS	4,764	1,503	3,852	6,836
CROP INSURANCE	8,898	3,406	9,172	2,899
CUSTOM HIRE INCOME	3,405	3,113	2,087	2,201
MISC. SCH. F. INCOME	2,147	3,928	2,393	2,982
TOTAL FARM INCOME	$77,627	$56,140	$67,389	$63,010
FARM DEDUCTIONS:				
CHEMICALS	2,054	2,287	2,359	2,134
CUSTOM HIRE	1,684	1,633	1,106	2,506
DEPRECIATION	9,293	9,522	7,980	7,095
FEED	2,355	2,797	2,907	1,941
FERTILIZERS	584	506	264	174
FREIGHT, TRUCKING	279	101	177	242
GAS, FUEL, OIL	4,268	4,373	4,550	4,983
INSURANCE	2,511	3,186	3,267	3,964
INTEREST	8,898	9,778	12,647	9,941
LABOR	864	1,015	913	884
RENT	3,332	3,543	4,875	5,565
REPAIRS	4,221	4,333	4,180	4,309
SEEDS	2,203	1,254	887	826
SUPPLIES	2,287	2,490	2,016	2,134
TAXES	2,737	2,598	2,858	2,934
UTILITIES	1,010	1,058	1,071	957
VETERINARY	257	289	291	237
LEGAL/ACCOUNTING	620	497	508	347
CCC LOANS REPAID/BASIS	6,053	1,454	1,658	1,900
CALF/CROP/WOOL SHARES	1,037	1,104	679	903
BUSINESS CAR/TRAVEL	453	494	584	491
DUES, FEES, SUBS., BANK	286	320	424	428
CCC REPAYMENTS			1,836	727
OTHER FARM EXPENSES	2,190	3,296	1,826	2,714
TOTAL DEDUCTIONS	$59,476	$57,928	$59,865	$58,338
NET FARM PROFIT/LOSS	$18,151	($1,788)	$7,523	$4,673

PREPARED BY: Tade Accounting

SENATE TAXATION
EXHIBIT NO. 17
DATE 3-19-93

SENATE TAXATION
EXHIBIT NO. 18
DATE 3-19-93
BILL NO. SB 424

CHAIRMAN SENATOR HALLIGAN AND MEMBERS OF THE TAXATION COMMITTEE:

MY NAME IS BOB FOUHY AND I AM A BOARD MEMBER OF AND REPRESENT THE LAND MANAGEMENT COUNCIL. WE OPPOSE SENATE BILL 424.

LANGUAGE IN THIS BILL CONTAINS VERY LITTLE IF NO FORESIGHT IN REGARD TO THE DAMAGE IT ULTIMATELY WILL DO IN THE LONG TERM TO THE SCHOOL TRUST LANDS FUND. ALTHOUGH THE LANGUAGE TO RETAIN THE PREFERENCE RIGHT APPEARS TO BE LEFT ALONE IN THIS BILL, WE STILL MUST QUESTION WHETHER OR NOT THAT WILL REMAIN SO, WHEN THE TERM "FULL MARKET VALUE" IS DEFINED.

BY CHANGING THE CURRENT LANGUAGE TO READ "FULL MARKET VALUE" THE TRUST LANDS COULD BE OPEN TO OPTIONS SUCH AS, ELIMINATION OF THE PREFERENCE RIGHT, SHORTER LEASE TERMS, AND ORAL AUCTION ON LEASES AT RENEWAL.

THE PREFERENCE RIGHT IS VERY IMPORTANT TO THE SCHOOL TRUST AND THE LESSEE. THIS GIVES THE LESSEE STABILITY FOR A BASE AND AT THE SAME TIME CREATES STABILITY FOR THE SCHOOL TRUST. THE PREFERENCE RIGHT AND THE CURRENT LENGTH OF THE LEASE TERM ALLOWS THE LESSEE TO DEVELOP CONSERVATION PLANS FOR THE CONTIGUOUS STATE AND PRIVATE LANDS WITHIN THEIR FARM OR RANCH OPERATIONS. IN OUR AREA, WE HAVE FARMS AND RANCHES WHICH CONTAIN 70%, 80%, AND SOME OPERATIONS THAT ARE 100% STATE LANDS. TO HAVE A LESSEE WHO WOULD ONLY LEASE THE LAND FOR A SHORT LEASE PERIOD WOULD ENCOURAGE A MAKE-MONEY-QUICK-WITH-MINIMAL-EXPENSE ATTITUDE. THIS ATTITUDE WOULD CONTRIBUTE TO DAMAGE WHICH MAY EVEN BE IRREPARABLE TO THE SCHOOL TRUST LANDS IN THE NEAR FUTURE AND ALSO WHICH WOULD ULTIMATELY RESULT IN LESS REVENUE FOR OUR SCHOOLS. IT DOESN'T TAKE MUCH IMAGINATION AND FORESIGHT TO REALIZE WHAT THE END RESULT WOULD BE IF LEGISLATION LIKE SB424 WERE TO BECOME LAW.

CONSERVATION AND HUSBANDRY CANNOT BE OVERSTRESSED. WE NEED TO CARE FOR THESE LANDS OVER THE LONG TERM NOT ONLY FOR OURSELVES BUT FOR THE FUTURE OF OUR CHILDREN. THE INCENTIVE TO ERADICATE THAT NOXIOUS WEED PATCH AND INSTALL

CONSERVATION MANAGEMENT PRACTICES MUST NOT BE TAKEN AWAY IN THESE AREAS. OFFERING THE LEASES AT ORAL AUCTION AND SHORTENING THE LEASE PERIOD WOULD UNDENIABLY BE DETRIMENTAL IN A VERY SHORT PERIOD TO THE SCHOOL TRUST, COMMUNITIES, AND TO ENTIRE FAMILY FARM OPERATIONS, AS I PREVIOUSLY STATED.

AGAIN, THE PREFERENCE RIGHT OF TRUST LANDS LESSEES AND A 10 YEAR LEASE PERIOD IS OF PARAMOUNT IMPORTANCE TO THE FAIRNESS AND HUSBANDMAN-LIKE MANNER IN WHICH SCHOOL TRUST LANDS ARE LEASED AND CARED FOR. THE ELIMINATION OF THIS IN THE PURSUIT OF REVENUE WOULD CREATE PURE PANDEMONIUM IN AREAS OF MONTANA SUCH AS OURS WITH HIGH TRUST LAND CONCENTRATIONS. IT WOULD DESTROY MOST OF THE FARMS AND RANCHES IN WESTERN DANIELS COUNTY AND THE COMMUNITIES THAT THESE AGRI-BUSINESSES SUPPORT.

HOMESTEAD LEASES IN OUR AREA WHICH ARE REFERRED TO AS CABIN SITES IN WESTERN MONTANA HAVE NO AESTHETIC VALUE AS DO THE CABIN SITES IN THAT PART OF OUR STATE WHERE ONE MAY HAVE A LAKE OR MOUNTAIN VIEW IN THE BACKYARD. THE HOMESTEAD LEASES ARE YEAR-ROUND FARM HOMES WHERE FARM BUSINESS IS CONDUCTED AND FOR THIS REASON THEY SHOULD NOT BE INCLUDED AS A RECREATIONAL CABIN SITE.

UNFORTUNATELY, THE STUDY BY PROFESSOR DUFFIELD AND ASSOCIATES HAS BEEN PERCEIVED AS GOSPEL BY A NUMBER OF LEGISLATORS. THERE ARE MANY DISPARITIES IN THIS STUDY AND THE CONCLUSIONS WHICH WERE DRAWN IN THE SUMMARY ARE MERELY SUGGESTIONS ON THE PART OF PROFESSOR DUFFIELD TO RAISE RENTS AS HE WOULD WISH.

BECAUSE THE LANGUAGE IN THIS BILL COULD ULTIMATELY RESULT IN A REDUCTION OF REVENUE TO THE SCHOOL TRUST, AND WOULD ADVERSELY AFFECT ENTIRE COMMUNITIES WE ASK YOU TO TAKE THE NECESSARY ACTION TO KILL THIS BILL.

THANK YOU,

SENATE TAXATION
EXHIBIT NO. 19
DATE 3-19-93
BILL NO. SB 424

Chairman Halligan and Members of the Taxation Committee:

My name is Brian Hagan and I farm School Trust Lands located in south-western Daniels County. I oppose Senate Bill No. 424. In our area I believe that the Department of State Lands is already achieving full market value for much of their property. I farm privately held leases for a 25% cropshare, which is the same rate as the State owned land. The difference is that the private lessors provide grain storage, pay 25% of the fertilizer bill, pay taxes in our county and do not charge grazing fees for unused grass. For 1993 I have paid $435.00 to the Department of State Lands for grazing fees even though I have no cattle. A good portion of this grazing acreage is impossible to graze since it has no water, no fences and is intermingled with growing crops from April through August.

I believe Montana's Legislature has acted in the best interests of Montana when establishing rates, fees, share and lease agreements. To put this power in the hands of a few individuals, who very possibly do not represent all of Montana's diverse interests, would be very unfair.

Thank you for the opportunity to express my concern.

MONTANA FARM BUREAU FEDERATION
502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

EXHIBIT NO. 20
DATE 3-19-93
SB 424

March 19, 1993

Mr. Chairman, members of the committee, for the record my name is John Youngberg. I represent the Montana Farm Bureau Federation. I am in opposition to SB 424.

I am not here to say that all leases of state lands fully maximize the value of these lands, I do question whether this bill would achieve the desired end.

My first question would be how is the state land board going to determine full market value of state leases. My assumption is that the recently completed and highly criticized study by Duffield and Anderson would be the basis for determining full market value. Although there is valuable data in this study the conclusions are highly questionable as I am sure you will hear in further testimony this morning.

Something that is lacking in the Duffield study is a visual presentation of the array of state lands across Montana. In other words a map.

I went to a map published by the BLM and looked at the distribution of Federal, State, and Private Land. It tells a story when you see it that way. The state lands are interspersed with the private lands in a vast checkerboard pattern. It is clear to anyone familiar with the state, particularly the eastern region, that these lands are not in great demand for any purpose other than what they are being used. To suggest otherwise is silly.

There was no demand for these lands until the '30s when the state went to private landowners and asked their help in maintaining these areas, with the incentive that lease rates would be kept affordable for even the poorest farmer or rancher. Now the state would reject those who kept their part of the bargain because you've been told you can make more money. You can't.

The demand for these lands is limited to those who can reasonably and responsibly use them. Even if you accept a different formula for fees, searching for fairness between users of public lands is complicated.

One issue that further complicates the lease situation on grazing lands is that many state land sections, particularly in eastern Montana have no reliable source of water and in some cases are landlocked by private lands, making it unfeasable for anyone but the surrounding or adjoining land owners to lease. If these leases are not picked up by the adjoining or surrounding landowner, chances are the land would go unleased, resulting in not more revenue for Montana Schools, but actually a reduction. Add the fact that the state would then be required to control weeds and given Montana's open range law, be required to fence out adjoining land owners cattle. Land that once produced revenue would become a tax burden.

The risk to our economy is too great to move too quickly to change a revenue program that is already working. Further analysis of the conclusions drawn from the Duffield study are needed to determine a program of FAIR MARKET VALUE. Please vote no on SB 424.

DATE 3-19-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 424 SB 429

Name	Representing	Bill No.	Check One Support	Oppose
TIM TANBERG	MONT ST LEASEHOLDS	424		✓
Ric Miller (E)	" " "	424		✓
Steve Carney	self	424		✓
BARRY HANDY	SELF	424		✓
Marvin Dick	SELF	424		✓
Myron HALVERSON	Self	424		✓
Ernest Ibey	Mont St. Leaseholders	424		✓
Robert Fosby	Land Management Council	424		✓
LeRoy Nelson	" "	424		✓
TOM RICHMOND	Board of Oil & Gas	429	X	
J.W. HARPERSON	Board of Oil & Gas	429	X	
[illegible]	APE	424		X
Bob Hoffman	A.P.A.	424		✓
[illegible]	Land Mgmt Council	424		X
[illegible]	[illegible]	[illegible]		✓
[illegible]	[illegible]	[illegible]		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F1C

DATE 3-19-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: S.B 424 S.B 429

Name	Representing	Bill No.	Check One: Support	Oppose
Sen John C. Brenden	Self	SB 424		X
Janelle Fallan	Mt Petroleum	429	X	
Rusty Hayes	State Auditor	424	X	
Dennis Casby	Self	424	X	
Don Waldron	MREA	424	X	
Dean Peterson	MT Assn. Guides	424		X
Pri Peaver	MEA	424	X	
Mark Rafe	St Auditor	424	X	
[illegible]	[illegible]	424		X
Nancy Keenan	State Superintendent	424	X	
Dena Abelin	Northern MT. Oil & Gas Assn	429	X	
Garth Jacobson	Sec of State	424	✓	
John Bloomquist	MT. Stockmens	424	-	✓
L.C. Berry	self	424	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F1C

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 25, 1993, at 7:00 a.m.

ROLL CALL

Members Present:
Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: Sen. Tom Towe (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 438
Executive Action:	SB 257, SB 305, SB 410, SB 424, SB 426, SB 433, SB 438

EXECUTIVE ACTION ON SB 305

MOTION:

Senator Eck moved SB 305 DO PASS.

DISCUSSION:

Senator Halligan asked Jeff Miller, Department of Revenue (DOR), to explain the fiscal note for SB 305. Mr. Miller said the fiscal note was prepared prior to the amendments that were added in the Public Health Committee to change the rate of money distributed to the Debt Service and Long-Range Building Fund.

MOTION/VOTE:

Senator Van Valkenburg moved that SB 426 DO PASS AS AMENDED (681424SC.Sma). The motion CARRIED 6-5 on roll call vote (#10).

EXECUTIVE ACTION ON SB 424

DISCUSSION:

Senator Eck said, irregardless of the Duffield Report, the Land Board has the constitutional requirement to set fees. There will probably be as many cabin site land leases that will go down in price as well as those that will go up in price.

Senator Gage said it appeared to him the opposition to the bill came because of the Duffield Report rather than language in the bill, but he has asked the five Land Board members to what extent they planned to use the Duffield Report whether SB 424 passes or not. He has not heard from the Governor or the Superintendent of Public Instruction. He did receive a response by letter from Mark O'Keefe, Auditor, in which Mr. O'Keefe indicated he would use the Duffield Report the same way whether this bill passes or not; it would be another source of information for determining what the rentals would be. Senator Gage talked with the Attorney General and he indicated a similar response. The Senator talked with a person in the Secretary of State's office who said he does all of the backup work for the Secretary of State regarding Land Board issues, and he said when the Duffield Report was reviewed by the Land Board, OPI and the Auditor said to go with it, and the Governor, the Attorney General, and the Secretary of State think there are many more things to look at than just what's contained in the Duffield Report. The staff person indicated that what they would probably do would be to call in everyone who is going to be affected by this bill, to discuss the Duffield Report and other issues that are not covered in the Duffield Report, and then go from there. With that happening, Senator Gage said he would not have trouble supporting SB 424.

Jeff Martin presented Exhibit No. 10 to these minutes, which are Amendments requested by Senator Blaylock and prepared by Eddye McClure.

MOTION:

Senator Yellowtail moved adoption of the amendments to SB 424 as listed on Exhibit No. 10 (SB042401.AEM).

DISCUSSION:

Senator Stang asked if SB 424 would sunset in two years or if it is forever. Senator Eck said that constitutionally the Land Board has the authority to set fees, without the Legislature

doing anything, however, SB 424 adds in recreational cabin sites to the current law. Senator Yellowtail said leases are for 10 years and to sunset SB 424 in two years would have a very narrow effect on the total body of leases.

Senator Gage said he has been told that the fees which are in place have been set by the Legislature and are a minimum fee.

Senator Stang asked if the Duffield Study is the only one done. Senator Yellowtail said the Legislature commissioned the Duffield Study last year at the insistence of groups like the stockgrowers. Senator Grosfield said the two other studies presented in the hearing on SB 424, one by MSU and the other by Pepperdine University, discredit the Duffield Study.

SUBSTITUTE MOTION:

Senator Gage moved a substitute motion to Amendment No. 10 (671226SC.San), Exhibit No. 10, to put a period after "effective date of this act", and strike the remaining language.

DISCUSSION:

As it applies to Section 8 and Section 9 of SB 424, Senator Gage said he doesn't particularly want to be an identifying partner with an arbitrator setting policy and tagging the legislators with it, or with the Land Board setting the grazing fee rental and then saying the Legislature agreed with it.

SUBSTITUTE MOTION/VOTE:

Senator Yellowtail moved the motion be divided for consideration and adoption of amendments 1 through 8 on Exhibit No. 10. The motion CARRIED on oral vote with Senator Grosfield voting "NO".

DISCUSSION:

Senator Grosfield questioned how full market value is determined. Senator Yellowtail said full market value is established by a survey of leases in the surrounding market as it concerns leases of state land.

Senator Doherty said in determining full market value, the Land Board undoubtedly will take into account that some land is more valuable than other land, and a parcel that is not very good may have a lower market value than is charged now, but some other parcels may have a higher full market value.

Senator Eck said on recreational lands, the Land Board indicated they would not only consider the improvements made to the land but also consider allowance for weed control and other kinds of management.

John North, Department of State Lands, was asked to explain the 9th amendment on Exhibit No. 10. Mr. North said the rationale is that Senator Blaylock wanted the new rates to become effective as quickly as is legally possible without violating the contract clause in the Constitution, and so forth. For cabin sites, this amendment makes the rates become effective upon the 5-year adjustment period. Cabin site leases are for 15 years and there is an adjustment period in those leases every five years. The new rate would be triggered under SB 424 at that point. Section (2) is relating to recreational use license and that is effective next year. Section (3) applies to grazing and agricultural lands. Mr. North said there is a provision in all grazing and ag leases that says if the Legislature raises the rate any time mid-term, then that rate becomes effective as applied to that lease mid-term also. This amendment would say any rate raising done pursuant to SB 424 by the landlord is deemed to be an act of the Legislature for the purpose of that clause in the grazing and agricultural leases.

Mr. North said Section 4 (old Section 5) is Renewal leases, but it references to Section 8. Section 8 (old Section 9) is where the lease rate is actually established. He said this would apply the new rate to all grazing and ag leases that are currently in effect. Senator Grosfield said, historically, those leases are 10-year leases, and the lease rate is usually negotiated in the signed contract, and all of those lease rates, whether they have been in place one year or nine years, will be revised. Mr. North said this would at least apply to those leases that were issued at the statutory minimum rental, which is about 90% of the leases. If the Land Board sets a June minimum rate, all of those would go up.

Senator Gage asked if the landlord had a constitutional responsibility to maximize those rentals, why were they using the minimums on those grazing fee rentals. Mr. North replied that it became clear that the landlord had a duty to charge maximum fee rental when Attorney General Greeley issued an opinion in 1983. The landlord commissioned a study shortly thereafter; the study indicated that the statutory lease rates were at the market value at the time. Nothing more was done by the landlord until this new study was commissioned, and this new study has indicated otherwise.

MOTION:

Senator Yellowtail's previous motion TO ADOPT applies to Amendment No. 9 (SB042401.AEM) (Exhibit No. 10).

DISCUSSION:

Senator Grosfield asked Mr. North if annual adjustments on cabin leases are done every five years under statute. Mr. North said it is not statutory; it is language included in the lease form, and the Board could not unilaterally change that lease form

until renewal. Senator Grosfield asked if the corresponding language in the lease with respect to item 3 is that the rate stays the same unless the Legislature changes it. Mr. North said that is true; it is lease language and is also statutory. He said the Constitution gives the landlord the authority to set rates subject to rules and regulations prescribed by the Legislature.

SUBSTITUTE MOTION:

Senator Yellowtail moved that a period be placed after December 31, 1993, and strike the remaining language in Section (3) to Amendment No. 9.

DISCUSSION:

Mr. North said the reason this language was put in the amendment is because without it, the landlord will have to consider whether the new rate is done by the Legislature, under that provision in the lease, or whether the Land Board is supposed to consider that the Legislature didn't raise the rates and, therefore, the Land Board isn't supposed to raise the rates until the end of the current lease. The Land Board wants some clear direction from the Legislature as to what to do there.

Senator Yellowtail said it is his intent that upon the renewal of the lease, the Land Board would apply the new rates.

VOTE:

The motion to strike the remaining language in Section (3) to Amendment No. 9, following "December 31, 1993", CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Grosfield moved to change Page 7, Line 25, to read, "The reasonable value may not be less than the full market value of the improvements". The motion CARRIED UNANIMOUSLY on oral vote.

MOTION:

Senator Brown moved to restore the language in Section 1 (1) to the existing law. This would basically strike Section 1 from SB 424 and return the language to existing law.

DISCUSSION:

Senator Brown said this will allow the fee for leases of cabin sites to be based on 3.5% of the appraised value of the property and would be approximately what people would pay in property tax.

Senator Yellowtail said the effect of this amendment would be to deviate from full market value, which he thinks is the obligation of the process under the Constitution. Senator Eck agrees with Senator Yellowtail.

VOTE:

The motion to restore the language in Section 1 (1) to the existing law FAILED 6-4 on roll call vote (#11).

DISCUSSION:

Senator Grosfield asked Mr. North about the language in Section 4, Page 5, stating "The board may not accept a bid that is below full market value", and does that mean the Land Board will set what they think full market value is, or are they just going to accept the highest bid. Mr. North said the Board would set the floor, and the Board may, at that point, re-evaluate what it considers to be market value.

MOTION:

Senator Yellowtail moved SB 424 DO PASS AS AMENDED (671226SC.San). The motion CARRIED 6-5 on roll call vote (#12).

EXECUTIVE ACTION ON SB 433

MOTION:

Senator Harp moved SB 433 BE TABLED.

DISCUSSION:

Senator Grosfield said his SB 435, which deals with this same subject matter, will be heard in this committee on March 26th. He understands there are three House bills that have been combined into one bill, but he doesn't know if that bill is coming out of the House, and Senator Doherty's bill, SB 182, which deals with this same subject matter, is still in this Committee.

VOTE:

The motion to TABLE SB 433 CARRIED on oral vote with Senators Grosfield, Gage, and Yellowtail voting "NO".

ROLL CALL

SENATE COMMITTEE TAXATION DATE 3-25-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe			✓
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FCE

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Taxation having had under consideration Senate Bill No. 424 (first reading copy -- white), respectfully report that Senate Bill No. 424 be amended as follows and as so amended do pass.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 11.
Strike: "77-1-808,"

2. Title, line 14.
Strike: "AN"
Following: "APPLICABILITY"
Strike: "DATE"
Insert: "DATES"

3. Page 2, lines 23 and 24.
Strike: subsection (4) in its entirety

4. Page 3, lines 3 through 5.
Following: "value" on line 3
Strike: remainder of lines 3 through 5

5. Page 3, line 11.
Following: "~~follows.~~"
Insert: "must be credited as follows:
(a) Except as provided in subsection (2)(b), license fees"

6. Page 3, line 22.
Following: line 21
Insert: "(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808."

7. Page 4, line 3 through page 5, line 4.
Strike: section 3 in its entirety
Renumber: subsequent sections

8. Page 7, line 25 through page 8, line 1.
Strike: "exceed" on page 7, line 25 through "costs" on page 8, line 1
Insert: "be less than the full market value"

~~AM~~ Amd. Coord.

9. Page 10, line 25.
Following: "**Applicability.**"
Strike: "[This act]"
Insert: "(1) [Section 1]"

10. Page 11, line 2.
Following: "act]"
Insert: "and, for leases in effect on [the effective date of this act], to rentals due after rental adjustments made pursuant to adjustment provisions in the lease.

(2) [Section 2] applies to licenses sold after February 28, 1994.

(3) [Section 3] applies to lease years beginning after December 31, 1993"

-END-

ROLL CALL VOTE #11

SENATE COMMITTEE TAXATION BILL NO. SB424

DATE 3-25-93 TIME 7:00 (A.M.) P.M.

NAME	YES	NO
Sen. Brown	✓	
Sen. Doherty		✓
Sen. Eck		✓
Sen. Gage		✓
Sen. Grosfield		✓
Sen. Halligan	✓	
Sen. Harp	✓	
Sen. Stang	✓	
Sen. Towe		
Sen. Van Valkenburg		✓
Sen. Yellowtail	✓	✓

Bonnie Stark
SECRETARY

Mike Halligan
CHAIR

MOTION: Strike Section One.

Failed 6-4

ROLL CALL VOTE #12

SENATE COMMITTEE TAXATION BILL NO. SB 424

DATE 3-25-93 TIME 7:00 (A.M.) P.M.

NAME	YES	NO
Sen. Brown		✓
Sen. Doherty	✓	
Sen. Eck	✓	
Sen. Gage	✓	
Sen. Grosfield		✓
Sen. Halligan		✓
Sen. Harp		✓
Sen. Stang		✓
Sen. Towe	✓	
Sen. Van Valkenburg	✓	
Sen. Yellowtail	✓	

Bonnie Stark
SECRETARY

Mike Halligan
CHAIR

MOTION: Do Pass as Amended.

Carried 6-5

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-25-93
BILL NO. SB 424

Amendments to Senate Bill No. 424
First Reading Copy

Requested by Senator Blaylock
For the Senate Taxation Committee

Prepared by Eddye McClure
March 18, 1993

1. Title, line 11.
Strike: "77-1-808,"

2. Title, line 14.
Strike: "AN"
Following: "APPLICABILITY"
Strike: "DATE"
Insert: "DATES"

3. Page 2, lines 23 and 24.
Strike: subsection (4) in its entirety

4. Page 3, lines 3 through 5.
Following: "value" on line 3
Strike: remainder of lines 3 through 5

5. Page 3, line 11.
Following: "~~follows.~~"
Insert: "must be credited as follows:
(a) Except as provided in subsection (1)(b), license fees"

6. Page 3, line 22.
Following: line 21
Insert: "(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808."

7. Page 4, line 3 through page 5, line 4.
Strike: section 3 in its entirety

Renumber: subsequent sections

8. Page 10, line 25.
Following: "**Applicability.**"
Strike: "[This act]"
Insert: "(1) [Section 1]"

9. Page 11, line 2.
Following: "act]"
Insert: "and, for leases in effect on [the effective date of this act], to rentals due after rental adjustments made pursuant to adjustment provisions in the lease.
(2) [Section 2] applies to licenses sold after February 28,

1994.

(3) [Section 3] applies to lease years beginning after December 31, 1993, and for leases in effect on [the effective date of this act], the lease rates established by the board of land commissioners pursuant to [section 8] are considered to have been established by the legislature"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on April 7, 1993, at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 424
Executive Action:	SB 359 Be Concurred In, SB 374 Tabled, SB 379 Be Concurred In As Amended, SB 426 Be Not Concurred In, SB 428 Be Concurred In, SB 435 Tabled, SB 431 Tabled, SB 438 Be Concurred In As Amended, SB 427 Be Concurred In, SB 424 Be Concurred In As Amended

HEARING ON SB 424

Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, Senate District 43, Laurel, said SB 424 is the result of the Duffield study on state school lands (**EXHIBIT A**). SB 424 will transfer the authority to set grazing rates from the Legislature to the Board of Land Commissioners. The formula used to separate the rates is based on animal units (A.U.M.) of $4.17. The average received on state leases is $4.24. The study shows that people who have private leases are paying $15 per A.U.M. in comparison to state leases. He informed the Committee that one horse is one A.U.M., a cow and a calf are one A.U.M., and five sheep or five goats are considered one A.U.M. The study takes into consideration the difference between state school lands and private lands. With privately leased lands, the lessee receives services from the lessor. The Duffield study took into account the services rendered on private leases and then determined the average for state leases should be set at $7.60. The Legislature adopted a bid system for leasing state school lands, but only 8% of those lands are subject to the bid process. He said the system needs to be changed so full market value is the base for the leases. Sections 16 and 36 of every township are set aside for educational investments in the children of Montana. The state should have a system of return on that investment that more adequately addresses the needs of the educational system.

Proponents' Testimony:

Mark O'Keefe, State Auditor, and Commissioner of Insurance and Securities, said two educational groups brought a lawsuit against the state and won their case, because they weren't receiving full market value for the school children. He referred to a report done by John North from the Department of State Lands at the request of the Governor, that indicates the State Land Board already has the authority to raise grazing and crop fees. Currently, the cabin and recreational fees cannot be changed. SB 424 will allow the state to receive full market value for cabin sites and recreational fees, and grazing and crop fees. The statutes set the minimum fees that can be charged by the Board, but it does not indicate the Board can raise those fees. He read an opinion from the Attorney General, dated 1983, which states "the Board of Land Commissioners, in establishing state grazing lease fees, not only has the authority to negotiate leases in excess of the four mills established by statutes, but in the licensed constitutional sources, and it is then the absolute duty to achieve fair market value on each grazing lease that is negotiated". He encouraged passage of SB 424 so the Department of State Lands can study the fees for cabin sites, recreation, and outfitters use fees to help fund the Board's mandated responsibilities.

Eric Feaver, Montana Education Association (MEA), said MEA supports HB 424. He said the problems have been around longer than the Duffield study which only came out in 1991. SB 424 invites the Legislature to direct the Board of Land Commissioners to do their constitutional duty and give them the backbone to collect the money needed for the school trust fund to help educate the children of Montana.

SEN. KEN MESAROS, Senate District 21, Cascade, said he supports SB 424. He submitted proposed amendments with **SEN. BLAYLOCK'S** approval. He said SB 424 requires that all leases be adjusted as of effective date, and be phased-in over a period of 10 years. He said the fiscal note should be changed to reflect the addition of an Advisory Board. **EXHIBIT 1**

Dennis Casey, private citizen, said, as a former Commissioner for Department of State Lands, he has had a life long interest in the grazing rates. He said there are two safeguards in the bill: 1) the fees and rates will be established after the rulemaking process; and 2) the Advisory Council will work closely with the Land Board. He urged support for SB 424.

Leo Berry, attorney, said his interest in SB 424 goes back to his first job when he worked with former governor, Ted Schwinden, who was the Land Commissioner, and later as Commissioner of State Lands for five years. He said Montana has a resource in its grazing lands that many states do not have any longer. The original land grants of Sections 16 and 36 were granted to the state trust which serves common schools. The original intent of the trust was to sell the lands and place them into monetary trust, but most of the western states sold their land for little or nothing. When Montana became a state, Congress placed an obligation on the state to obtain full market value for those lands with a minimum price of $10 an acre. The obligation to receive full market value remained in the Enabling Act and the Constitution. He agreed with Dennis Casey who stated the state lands should stay under the control of the State Land Board because they meet monthly and deal with the issues on a regular basis.

Garth Jacobson, attorney representing Secretary of the State's Office, expressed support for SB 424. He said the comments and concerns he has heard in regard to the Duffield study are changes that may occur in the future. He felt this bill is the tool that will take care of those concerns. The Duffield study is a starting point and will provide research material for the advisory board in decisions on full market value for rental rates of state lands. He said there are three alternatives: 1) the Land Board could proceed with the rate increases; 2) wait to see if there are barriers to the statutory rates, and let the courts decide the rates; or 3) wait and have further studies done on the rates, which could also end up in litigation.

George Schunk, representing the Attorney General's Office, said the constitutional Enabling Act is clear when it states it is the responsibility of the trustees serving on the Land Board to make sure they receive full market value for the land.

Madalyn Quinlan, Office of Public Instruction (OPI), said the State Superintendent supports SB 424. The Board of Land Commissioners and the Department of State Lands is charged with managing the largest farming and ranching operation in the state, consisting of 5.2 million acres. SB 424 will enable the Land Commissioners to fulfill their constitutional obligations and make beneficial decisions to generate funding for schools. She said SB 424 is a crucial part of the effort to raise the major revenue to support the schools in the coming biennium.

REP. DON LARSON, House District 65, Seeley Lake, said it is proper policy that the Land Board manage the 5.2 million acres. He urged support for SB 424.

Jim Peterson, Executive Vice President of Montana Stockgrowers Association, presented testimony in support of the bill **EXHIBITS 2, 3, and 4.**

REP. ALVIN ELLIS, House District 84, Red Lodge, representing himself as a landowner and a lessee of 6½ sections of state lands, said the amendments are critical and he hoped the Committee would review and adopt them. He said it is also critical for the lessees to deal with the weed control on state leased land.

George Paul, Montana's Farmers Union Association, said the Association supports SB 424 for two reasons: 1) they don't want to see any further polarization between the agricultural industry, the rural community, and the education communities across Montana; and 2) they hope this process will be a fair and equitable one. He said the agricultural community is concerned that the funding mechanism is adequate and fair for them and the schools.

Opponents' Testimony:

Tim Tanberg, President of Montana State Leaseholders Association, presented written testimony in support of the bill. **EXHIBIT 5**

Sam Hofman, private citizen, presented written testimony in support of the bill. **EXHIBIT 6**

Rick Miller, private citizen, it is fair that the state receive s fair market value for the land. The assessment should be equitable for the state and the people that use the land. His concern is the appraisal and assessment of cabin sites. There are three sites that he knows of which are similar in land, size, ground and timber and each of these sites are appraised differently anywhere from $13,000 to $30,000.

Dan Meissner, representing Cabin Site Leaseholders, said in an eight year span his cabin site lease went from $125 a year to $1,000, increasing by $1,040 in seven years. He said State Lands is receiving full market value, but the problem is with the assessment value of the property. He said a privately owned cabin site in the same area has lower taxes than the rate on a leased cabin site which is only available for six months out of the year.

Merwin & Carol Works, Farm co-owners & operators, distributed written testimony in opposition to SB 424. **EXHIBIT 7**

Questions From Committee Members and Responses:

REP. KELLER asked about the composition of the advisory board. **SEN. BLAYLOCK** said the appointments will be made by the Governor with the concurrence of the majority of the Land Commissioners. The members will be balanced between users and beneficiaries of the land.

REP. DOLEZAL asked **SEN. BLAYLOCK** if he was agreed with the amendments presented by **SEN. MESAROS. SEN. BLAYLOCK** said he supports the amendments, but asked if John North from Department of State Lands would review them.

REP. DRISCOLL asked **Mr. North** if the Land Board will take into consideration the loss of the use fee dollars. **Mr. North** said the Board will take into consideration the full market value compared to what a private owner would receive for leasing.

Closing by Sponsor:

SEN. BLAYLOCK closed by urging the Committee to read the summary of the Duffield Study. SB 424 doesn't dictate using the Duffield study, only to use it as a management tool. This bill is a step in the right direction. He felt the study offered good information as a basis for the bill.

EXECUTIVE ACTION ON SB 359

Motion/Vote: **REP. ELLIOTT MOVED SB 359 BE CONCURRED IN.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 374

Motion: **REP. DOLEZAL MOVED SB 374 BE CONCURRED IN.**

EXECUTIVE ACTION ON SB 424

Motion: **REP. HARPER MOVED SB 424 BE CONCURRED IN.**

Motion: **REP. HARPER moved the adoption of the amendments. EXHIBIT 1**

Motion/Vote: **REP. ELLIOTT moved to segregate amendment #14. Motion carried unanimously.**

Motion: **REP. DRISCOLL moved to segregate amendment #7.** The Committee discussed voting on the rest of the amendments and working on amendment #7 separately.

Motion/Vote: **REP. HARPER moved to adopt amendments #1 - #6, #8 - #13, #15 and #16 (excluding #7).** Motion carried 19 - 1 with **CHAIRMAN GILBERT** voting no.

REP. ANDERSON moved to adopt amendment #7. EXHIBIT 1

Discussion: **REP. ELLIOTT** said the DSL wants this provision left in the bill because they can reject the bid if it is the only bid and not at full market value.
Vote: Motion to adopts #7 failed 10 - 10.

Motion/Vote: **REP. HARPER MOVED SB 424 BE CONCURRED IN AS AMENDED.** Motion carried 14 - 6 on a roll call vote. **EXHIBITS 14 & 15**

ADJOURNMENT

Adjournment: The meeting adjourned at 12:30 p.m.

Mike Foster, Vice-Chairman
BOB GILBERT, Chairman

Jill Rohyans
Jill ROHYANS, Secretary

These minutes were written by Claudia Johnson and edited and proofed for content by Jill Rohyans.

BG/jdr/cj

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 4/7/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

House Taxation Committee

EXHIBIT A
DATE 4/7/93
SB 424

Economic Analysis of the Values of Surface Uses of State Lands

SUMMARY REPORT

John Duffield
Bruce Anderson
Chris Neher

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

Report for Montana Department of State Lands
February 1993

Bioeconomics, Inc.
250 Station Drive
Missoula, MT 59801

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Mr. Speaker: We, the committee on Taxation report that Senate Bill 424 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Wilson

And, that such amendments read:

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"

2. Page 1, line 23.
Following: "shall"
Insert: "["

3. Page 1, line 24.
Following: ","
Insert: "]"

4. Page 3, line 7.
Following: "must"
Insert: "["

5. Page 3, line 9.
Following: ","
Insert: "]"

6. Page 6, line 22.
Following: "board"
Insert: "["

7. Page 6, line 24.
Following: ","
Insert: "]"

Committee Vote:
Yes 14, No 4.

8. Page 10, line 23.
Following: "must"
Insert: "["

9. Page 10, line 25.
Following: ","
Insert: "]"

10. Page 11, line 2.
Following: "~~77-6-507~~"
Insert: "as provided in 77-6-507"

11. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

12. Page 12, line 8.
Following: line 7
Insert: "NEW SECTION. Section 11. Setting of rates or fees.

(1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."
Renumber: subsequent sections

13. Page 12, line 23.
Strike: "[SECTION 12] IS"
Insert: "[Sections 11 and 12] are"

14. Page 12, line 25.
Strike: "SECTION"
Insert: "sections 11 and"

15. Page 13, line 12.
Following: line 11
Insert: "
NEW SECTION. Section 15. Termination. [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."
Renumber: subsequent section

-END-

EXHIBIT 1
DATE 4-7-93
SB 424

Amendments to Senate Bill No. 424
Third Reading Copy

Requested by Senator Mesaros
For the Committee on Taxation

Prepared by Greg Petesch
April 5, 1993

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"

2. Title, line 15.
Strike: "77-6-202,"

3. Page 1, line 23.
Following: "shall"
Insert: "["

4. Page 1, line 24.
Following: "⊥"
Insert: "]"

5. Page 3, line 7.
Following: "must"
Insert: "["

6. Page 3, line 9.
Following: "⊥"
Insert: "]"

7. Page 5, line 18 through page 6, line 8.
Strike: section 3 in its entirety
Renumber: subsequent sections

8. Page 6, line 22.
Following: "board"
Insert: "["

9. Page 6, line 24.
Following: "⊥"
Insert: "]"

10. Page 10, line 23.
Following: "must"
Insert: "["

11. Page 10, line 25.
Following: "⊥"
Insert: "]"

12. Page 11, line 2.
Following: "~~77-6-507~~"
Insert: "as provided in 77-6-507"

13. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

14. Page 12, line 8.
Following: line 11
Insert: "NEW SECTION. **Section 11. Setting of fees.** (1) In setting the lease rental rates or fees for the use of state lands, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."
Renumber: subsequent sections

15. Page 12, line 23.
Strike: "[SECTION 12] IS"
Insert: "[Sections 11 and 12] are"

16. Page 12, line 25.
Strike: "SECTION"
Insert: "sections 11 and"

17. Page 13, line 10.
Strike: "8 AND 10"
Insert: "7, 9, and 11"

18. Page 13, line 12.
Following: line 11
Insert: "
NEW SECTION. **Section 15. Termination.** [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."
Renumber: subsequent section

EXHIBIT 2
DATE 4-7-93
SB 424

TESTIMONY
HOUSE TAXATION COMMITTEE
S.B. 424
MONTANA STOCKGROWERS ASSOCIATION, MONTANA CATTLEWOMEN, INC.,
AND MONTANA WOOL GROWERS ASSOCIATION
APRIL 7, 1993

For the record, my name is Jim Peterson. I am Executive Vice President of the Montana Stockgrowers Association and a rancher from central Montana. Today I am speaking in support of the amendments to S.B. 424 on behalf of the Montana Stockgrowers, the Montana Wool Growers and the Montana CattleWomen. If the amendments are approved, we are also supporting S.B. 424 so that the State Land Board has a process for reviewing all fees for all users of state lands.

The original purpose of S.B. 424 as it was introduced in the Senate was two fold: First, to place authority for establishing fees on all uses of school trust lands with the State Land Board, and to require the Board of Land Commissioners to obtain "full market value" for leases on school trust lands. Second, to use the recently released, "Duffield Study" as a guideline for the Board of Land Commissioners to use in reviewing land use fees on state school trust land.

The amendments that were added in the Senate would require the State Land Board to adopt rule making guidelines that must be followed for reviewing all fees on state lands (i.e. notice, hearings, comments, and appeals). The Senate amendments also require formation of an Advisory Council made up of state land users and a representative from education to review all information available, not just the Duffield Study, and make recommendations to the Land Board. The Senate amendments also re-established the market based grazing fee formula as the foundation for grazing lessees. Senator Mesaros' amendment No. 14 would require consideration of the impact on land uses and lessee expenses required on school trust land in the fee setting process.

One major problem with this bill is the fiscal note. While not specifically stated in the bill itself, the fiscal note implies that the Duffield Study should be the guideline for recommended fees used by the Board of Land Commissioners in obtaining full market value. I will provide you with two critiques of the Duffield Study--one from Pepperdine University and one from Montana State University--that provide strong evidence that the Duffield Study should not be used as a sole recommendation for reviewing fees on state lands and certainly not as a guideline for "full market value".

First, however, two questions should be addressed: 1) Should the State Land Board have the exclusive authority for establishing fees on school trust lands?, 2) What kind of decision making process and information guidelines should be used for establishing the land use fees themselves?

Initially, who should have the authority for establishing fees on state lands--the State Land Board or the Legislature? Currently, the State Land Board has the authority to establish fees for grazing and agricultural uses and outfitting fees. The Legislature, however, has set the fees for recreational use and cabin site lessees. It makes sense that the authority should be one place or the other and not fragmented and split between two entities. This bill, S.B. 424, establishes the authority with the State Land Board for all uses of state lands. One can argue that the State Land Board has been given the responsibility for managing state lands, therefore, they should have the authority for setting fees. One concern that the agricultural community has is the State Land Board has very little agricultural background and that is the reason for the introduction of the process and the Advisory Council.

EXHIBIT #2
DATE 4-7-93
SB-424

Second, if the State Land Board is given the authority for setting all fees, there should be a clear procedure for notifying all state land uses and lessees, providing hearings and a comment period, and an appeal process so that all users of state lands have an ample and fair opportunity to respond to any proposals that may come from the State Land Board. This process merely provides a level playing field for all lessees and users in any or all discussions and reviews of uses and fees for state lands. The Advisory Council should consist of individuals knowledgeable in the use of state lands and be representative of state land uses. The Advisory Council, provides an entity to review all of the information available and discuss important issues related to the uses of state lands. The Advisory Council then makes recommendations to the State Land Board which may not take the time (or have the time) to review the information thoroughly.

With this in mind, we are supporting the amendment that establishes the Advisory Council for the initial process but then terminates the committee in four years after the initial fee review process has been completed. The Advisory Council can provide expertise and direct input from actual users of State Land and hopefully won't be as political as either the Legislature or Land Board might be.

A significant concern of everyone associated with this process is the "knee jerk" reaction to the recommendations of the Duffield Study and the attempt to codify these recommendations by Rep. Kadas in H.B. 665 (which was killed in the House Education Committee) and now in S.B. 424, with the reference in the fiscal note to use the Duffield recommendations as guidelines for the Board of Land

Commissioners to use in setting fees. The Duffield Study was released in February and no one has had the chance to thoroughly analyze the study adequately. The statistical data has not been reviewed by other researchers and in the two cases I mentioned earlier, reviewers are very skeptical of the methodology used and they question the assumptions and conclusions of the study. Yet, this bill and the fiscal note recommends the Duffield Study as a guideline for the Board of Land Commissioners. We strongly object to this and assert that other information is available which should be considered.

Since the Duffield Study was released in February, four economists--Dr. Myles Watts and Dr. Terry Anderson of Montana State University, and Dr. Gerhard Rostvold and Dr. Thomas Dudley of Pepperdine University in California--have reviewed the economic theory and statistical analysis used in the study. Both reports strongly recommend a review of the methodologies, the factual foundation and conclusions drawn by Professor Duffield, et. al, before any adjustments are made in grazing lease fees on state school trust lands in Montana. A copy of both reports are provided for your review.

In spite of these major concerns, and the "knee jerk" reaction to the Duffield Study, the livestock and agricultural industries realize that it is appropriate to review the fee structure of state school trust lands, and that there is a recognized obligation to optimize return on school trust lands. At the same time, however, there are three major pillars to the foundation of long term management of school trust lands. They are: 1) The fee structure, 2) The long term stewardship and variability in the land, and 3) The lessees themselves. All three portions must be given careful consideration before any final decisions are made.

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We sincerely hope that our support of S.B. 424 will help insure that all three portions--the land, the lessee and the fee--will be reviewed thoroughly by the Advisory Council and the Land Board through a well established process prior to the Land Board making any decisions.

If the amendments to S.B. 424 cannot be added and there is not insured a fair, thorough process, I would encourage you to kill the bill, wait two years and we will try again. In spite of the "knee jerk" reaction to the Duffield Study, however, we are willing to move forward provided we are insured a fair and informative process. Thank you for your support of our concerns and I urge you consider the amendments and pass S.B. 424 with the amendments.

EXHIBIT 3
DATE 4-7-93
SB 424

PEPPERDINE UNIVERSITY

SCHOOL OF BUSINESS AND MANAGEMENT

REPORT TO THE MONTANA STOCKGROWERS ASSOCIATION

CRITIQUE OF THE REPORT ENTITLED ECONOMIC ANALYSIS OF THE VALUES OF SURFACE USES OF STATE LANDS, BY JOHN DUFFIELD, BRUCE ANDERSON AND CHRIS NEHER

AUTHORS OF CRITIQUE:
Dr. Gerhard N. Rostvold
Dr. Thomas J. Dudley

It is the primary purpose of this report to present a preliminary analysis and evaluation of (1) the economic market model, and (2) the statistical model utilized by Professor Jon Duffield and his colleagues in their February 1993 report to the Montana Department of State Lands. Our analysis and evaluation of the economic/market and statistical models used to support the final conclusions of the study program will be confined to the question of the full or fair market value of the forage produced on state school trust lands in Montana. In other words, are state grazing leases in Montana priced at fair market value?

Our work program has centered upon a review of the Summary Report, Economic Analysis of the Values of Surface Uses of State Lands, and the TASK 3 Report, Fair Market Value for Grazing Leases. Both reports (henceforth to be referred to as the Duffield Reports) were published under date of February 1993.

CONCLUSION OF THE DUFFIELD REPORTS CONCERNING THE ADEQUACY OF CURRENT STATE LEASE RATES IN MONTANA

The conclusions drawn with respect to the adequacy of current lease rates for grazing on state school trust lands in Montana were set forth in the TASK 3 Duffield Report (p. 65) as follows:

5.4 CONCLUSIONS.
As a result of an intensive (and extensive survey of Montana ranchers concerning grazing lease rates and four additional methods of analysis, we conclude that current state lease rates are much lower than current fair market value. Lease rates on Montana DSL grazing leases currently average $4.24 per AUM. The preceding analysis suggests that fair market value for these leases is on the order of $7.50 to $8.50 per AUM.

METHODOLOGIES UNDERLYING THE CONCLUSIONS DRAWN IN THE DUFFIELD REPORTS

Professor Duffield and his colleagues used six specific approaches to estimate a current fair market value for state grazing leases in Montana. The six approaches are described in the Summary Report (pp. 17-18), and the TASK 3 Report along the following lines:

Approach #1: Based upon a statistical model (a so-called "Hedonic Model") that relates lease characteristics and terms to price for private market grazing leases.

Approach #2: To look at the average price of the private leases that are most like the state leases. Comparative data from six private leases provided the foundation for estimating the current fair market value of state leases.

Approach #3: To look at the average competitive bid for the 8% of all state school land grazing leases which are competitively bid.

Approach #4: To look at what ranchers report is a fair market price for state leases.

Approach #5: To examine what other public land agencies, e.g., BLM, the Forest Service, and the Bureau of Indian Affairs (BIA), have established as lease rates for grazing lands.

Approach #6: To undertake a literature review of studies concerned with the economic value of forage on public and privately-owned grazing lands in the western states.

The author concluded that . . .

"All six of the methods tend to lead to a fair market value for state grazing leases that is around 70% of the private dryland lease rate..."

"This evidence suggests a fair market price between $7.50 and $8.50, with a point estimate of $8.00. (TASK 3 Report, p. 3)."

EVALUATION OF THE MARKET PRICE THEORY MODEL FROM WHICH FAIR MARKET VALUE CONCLUSIONS ARE DRAWN

Although Professor Duffield and his colleagues used six approaches to support their conclusions, there is no doubt that their Hedonic Price Model is the flagship of their alternative methodologies. In this section of our report we will evaluate the appropriateness of using an Hedonic Price Model to predict a "fair market value" for grazing leases on Montana state school trust lands. In the next section we will outline a detailed critique of the statistical methodology applied in translating data on private market lease rates into a measure of the "fair market value" of leases on state school trust lands.

As stated on page 9 of the TASK 3 Report . . .

> "The theoretical model adopted for this study is what is called a "Hedonic Price Model" (Rosen, 1974). The central idea is that house or land or similar goods can be modeled as single commodities differentiated by the amounts of various characteristics they contain. This model rests on a theory of product differentiation in pure competition."

The reader at this point, in all honesty, has to be asking himself, "What in the hell is a 'Hedonic Price Model'? And, what does it have to do with the price of forage and beef in the State of Montana?"

We have reviewed Herwin Rosen's 1974 article, "Hedonic Prices and Implicit Markets: Product Differentiation in Pure Competition," published in the Journal of Political Economy.

In the introduction to his paper, Rosen writes . . .

> "This paper sketches a model of product differentiation based on the hedonic hypothesis that goods are valued for their utility-bearing attributes or characteristics."

Our review of the "Hedonic Price Model" articulated by Sherwin Rosen, and applied in the February 1993 Duffield preports leads us to the conclusion that this price theory model is not appropriate to a factual determination of whether or not lease fees on private grazing lands in Montana represent an accurate proxy measure of the "fair market value" of grazing fees on state school lands in Montana.

The "Hedonic Price Model," in the words of Professor Duffield and his colleagues, ". . . rests on a theory of product differentiation in pure competition." (TASK 3 Report, p. 9).

We agree that it is feasible to conceptualize varying tracts of state school lease lands as differentiated products, but we summarily reject the choice of the purely competitive market model as a framework for predicting the "fair market value" of state school land leases.

The price theory micro-economic model of pure competition is defined in terms of many buyers and many sellers of the product. In this market model, no one buyer or seller exerts a direct influence on the ruling market price. Moreover, the product itself is homogeneous in character.

Table 3.1 (p. 11) of the Duffield Summary Report outlines the "Structure of State Lands Resource Markets." In the case of Montana grazing lands the product is defined as "Fairly Homogeneous." The market structure is defined as "Competitive."

In addressing the inholding issue, the TASK 3 Duffield Report (p. 63) observes,

"The inholding issue is troublesome because these units are typically unfenced. This means that the only logical user of these units is the rancher who owns the surrounding land. This means there is unlikely to be competition for the lease, but it also means the rancher has little choice but to use the unit and pay the state-determined rate."

Another factor limiting competitive forces in established lease rates on state school lands in Montana is the general unwillingness of ranchers to bid competitively against their neighbors. Additionally, the parcel of state school lands does not of itself represent an economically viable unit of production. State lands must be integrated into the production function of a given ranch operation which includes fee land as well as federal, state and private lease lands.

The realities are that there currently exists no pure micro-economic/market price theory model which allows us to say when grazing fees on public lands are equal to "fair market value." We summarily reject the "Hedonic Price Model" as a basis for defining the "fair market value" of grazing fees on state school trust lands in Montana.

In the final analysis, grazing fees on public lands are set by a Legislative-Regulatory-Administrative process. In this model of price determination the state of Montana, operating within the framework of the decision-making authority of the State Lands Board, occupies the powerful position of "Price Maker." The rancher, on the other side of the market transaction, is a "Price-Taker," insofar as grazing fees are concerned.

In our opinion, it is an heroic analytical leap to take the findings of a purely competitive Hedonic Price Theory Model and to apply these findings to an institutional setting in which Legislative-Regulatory-Administrative forces set the ultimate price. Even in the best of all social-political-economic worlds it is not highly probable that a highly abstract Hedonic Price Model will approximate the realities of the Legislative-Regulatory-Administrative model.

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Finally, the "Hedonic Price Model" of the Duffield Reports fails to adequately address the bottom-line questions of the comparability of privately-owned versus state-owned school trust lands in Montana.

EVALUATION OF THE FOUR REMAINING APPROACHES OF THE DUFFIELD REPORTS

In the two preceding sections of this report we have pointed out the weaknesses of the "Hedonic Price Model" and the failures of the "Statistical Model" used by Professor Duffield and his colleagues in concluding that current state lease rates are much lower than current fair market value. At this point we present an evaluation of the remaining five methodologies applied in support of the conclusion that the fair market value of Montana DSL grazing leases is in the order of $7.50 to $8.50 per AUM, in contrast with the current average lease price of $4.24 per AUM.

COMPARISONS WITH THE AVERAGE PRICE OF THE PRIVATE LEASES THAT ARE MOST LIKE STATE LEASES

Here the Duffield Report takes a sub-sample of six private leases held to be "most like the state leases" and derives a mean "fair market price" for state school trust grazing lands of $7.90 per AUM. The specific values of the six leases were: $3.91, $7.50, $8.00, $8.00, $8.00, and $12.00. The sheer paucity of the data sample here places into serious question the validity of the conclusion drawn. In some economic and statistical circles, this type of analysis is described as "Casual Empiricism". The data base simply provides no foundation for the conclusions drawn.

AVERAGE COMPETITIVE BID PRICES AS A MEASURE OF FAIR MARKET VALUE

In Montana, 8% of all state school land grazing lease prices are set by competitive bids. As the study itself observes (TASK Report, p. 41), the unwillingness of ranchers/neighbors to bid competitively is a factor limiting the establishment of true market values. Beyond the reluctance of the rancher to bid against his neighbor on state school land leases it is highly unlikely that the competitive bidding process on state lands meets the well-defined criteria of the purely competitive market structure where many buyers (ranchers) are bidding for the product (grazing lands) being offered by many sellers.

Again, the reality does not fit the model. In the case of Montana state school lands we have one seller -- a "Price Maker" -- higgling and haggling with a limited number of potential buyers. This does not describe the purely competitive market model held to be fundamental to the conclusions of the Duffield Reports.

WHAT RANCHERS REPORT IS A FAIR PRICE FOR STATE LEASES

A total of 601 ranchers in the survey sample provided an AUM-based average price for private leases in their area and the percent of that average private lease rate they thought represented a fair price for state leases. The percent-weighted average of all ranchers responding was $9.01 per AUM. In the case of those ranchers holding leases on state lands, the average percent-weighted fair price was $7.62.

We genuinely respect the opinions and judgments of Montana ranchers in the matter of what constitutes the fair market value of grazing leases on state school trust lands, but we withhold judgment as to the validity of the dollar value figures cited in the Duffield Reports. Opinions rarely meet the test of factual objectivity.

WHAT OTHER PUBLIC LAND MANAGEMENT AGENCIES ARE CHARGING FOR PRIVATE GRAZING LEASES

Professor Duffield and his colleagues quickly dismissed BLM and Forest Service lease rates as not providing useful information on the forage lease market (TASK 3 Report, p. 3 of Executive Summary). They did however, accept the validity of the "17 usable private leases both on and off the Fort Peck Reservation" yielded by the Anita Bauer study of May 1992. Again, we confront the "Comparability Issue," that is, do the 17 pieces of data from the Bauer study provide an adequate basis for drawing the general conclusion that the $8.00 per AUM price for BIA range units in the Fort Peck Area represent an acceptable proxy measure of the fair market value of state school trust land leases? We do not question the accuracy of Anita Bauer's findings. We do, however, question the adequacy of the sample from which Duffield, et al., derive their conclusions.

THE FINDINGS OF A REVIEW OF THE LITERATURE -- THE TORRELL, GHOSH, AND FOWLER STUDY OF 1988

Messrs. Torrell, Ghosh, and Fowler, in 1988, completed a study of the value of public grazing leases in New Mexico. They found that about 30% of private market grazing land lease rates were absorbed by the value of services rendered by the lessor.

The conclusion was drawn that the economic value of forage on public lease lands in New Mexico was approximately 70% of the private market lease rate for nonirrigated lands.

Professor Duffield and his colleagues concluded that assuming (emphasis supplied) that this ratio holds for Montana, the value of state school land leases in an estimated $7.89.

Here again, we have an important conclusion drawn upon the basis of untested assumptions. Of additional concern is the question of the comparability of Montana and New Mexico grazing lands as a basis for estimating the fair market value of grazing land leases. Duffield et al., do not confront the comparability issue. That remains as the paramount unanswered question in the comparative analysis of grazing fees on public and private lands in the western U.S. Until the criterion of comparability of public and private grazing lands in terms of productivity, value of the forage, carrying capacity, availability of water, etc., is met, economists and statistical model builders should tread lightly insofar as defining the "fair market value" of grazing leases is concerned.

For a more detailed exposition on this point, see the Rostvold/Dudley Report to Congress, New Perspectives on Grazing Fees and Public Land Management in the 1990's, June 1992.

EXAMINATION OF SPECIFIC RESEARCH AND STATISTICAL METHODOLOGIES

The following section deals with a critique of specific research and statistical methodologies utilized in the six approaches for determining grazing fees as advanced in the report. The critiques are from the point of view of appropriate research and statistical methodology generally employed in situations such as presented herein. In general, all research must be grounded in the testing of the major hypotheses or assumptions which underlay the problem at hand or decision to be made. In this case the major premise seems to be that there is comparability between private lease situations and public lease situations. If this is not the case, then how can one analyze private lease situations and be fiat assign the solutions to the public lease situations?

But this question is never put to the test or scrutiny of research methods and statistical analysis. Since the relationship between public rangelands and private rangelands is assumed to be comparable, it must be tested in a rigorous way before conclusions on the one side i.e. private grazing leases; can be arbitrarily assigned to the other side, i.e. public grazing leases. Because this was not accomplished in this study any conclusions reached lack credibility and are subject to question as to their "correctness."

In case number one a model is developed which purports to predict fair market value for grazing leases on public rangelands. On page 33 of the final report is listed a complete model and a reduced model. The reduced model is employed in the prediction process. A major evaluation tool of any prediction model is the degree to which the model "explains" the variability in the variable to be predicted, in this case price. The statistic utilized is called the coefficient of determination or r squared. In this case the reduced model has a value of .268 and the complete model has a value of .261. This results in an increase of .007 between the two models. This is not a significant increase in the predictability of the two models. However, the six variables eliminated from the complete model to proffer the reduced model all possess negative signs. This means that these six variables impact the predictive variable in a negative way, i.e. they would decrease the predicted price. In addition four of the eliminated variables are districts. One of the districts left in the model is district 50, which is purported to be the most expensive district. Thus, the most expensive district is left in at the expense of less expensive ones.

As indicated above the coefficient of determination is a measure of the degree to which the independent variables in the model explain the value or behavior of the dependent variable, i.e. price. Since, the value of this statistic in either model is in the .26 range, this means that 26% of the variation in price is "determined" by the variation in the variables in the model. The question that needs to be posed is, what variables not in the model explain the other 74% of the variation in price?

Another measure of the usefulness of a model is the coefficient of correlation, or "r". This is a measure of the association between the independent variables and the dependent variable. In this case both models have a coefficient of correlation in the .51 range. This means that both models possess the same degree of associativeness. Therefore, both are equally appropriate in terms of their ability to measure the relationship between the set of independent variables and price. But, the reduced model is purported to be the "right" model, even though it predicts a higher lease price than the complete model. The second case utilizes the model developed in case one above to select "private leases most similar to state leases." This results in a sample of six. This size of sample is hardly relevant to the total number of leases in the population, and is not representative of that population by virtue of the fact that is was selected on the basis of the model previously critiqued. A necessary condition of research is to obtain one unbiased random sample from a population if one desires to generalize to the population attributes obtained from the sample. Since, this particular sample was by nature restricted in how it was chosen, no conclusions obtained from it can be generalized onto the

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population. That is, the price obtained from the six samples cannot be generalized onto the entire population of private leases much less equated to public leases. In addition, those six leases have great variability in the values. The 95% confidence limits are from 5.20 to 10.57.

The third case utilizes as its basis the 315 state leases which could have been competitively bid. Of this number 33 were actually competitively bid. Based upon this sample an average price of $9.21 was determined. This begs the question of what happened to the 282 other state leases that were not competitively bid? If they were all let at the minimum state set price of $4.17, the weighted average of all 315 state leases would be $4.70. If some of the state leases were not even let, then the average value over all 315 leases would obviously be even lower.

The fourth case relies upon the reporting of what ranchers say is "a fair price for state leases." The point is that what one says is "a fair price" and what one actually pays in a transaction is usually very different. Prices should not be based upon what people think or say, even if those people are the "knowledgeable" experts if actual transaction data can be studied.

The fifth case "to examine what other public land management agencies charge for private grazing leases." At the present time the actual price charged for lease rates by the BLM and Forest Service is $1.92. This fact is summarily dismissed because they "do not provide useful information on the forage lease market." No evidence or even rationale is given for this stance. Instead, BIA leases are examined because they "do appear to represent market leasing rates." Again no evidence or rationale is given for the inclusion of this set of leases. Basic premises must be examined, at the outset of any research. If basic premises or hypotheses are not tested any conclusions drawn from the subsequent research are highly suspect. That is, if the basic premises are not true, in fact, the resulting conclusions are in all likelihood also not true. The sixth case is more of the same.

This case is built on literature review and public grazing leases in New Mexico. From the text one finds "assuming that this ratio holds for Montana. . . " But, this assumption is not tested in any statistical way. Therefore any conclusions drawn are highly suspect.

CONCLUSIONS

The main conclusions drawn from our review and evaluations of the Duffield Reports are:

First, the Hedonic Price Theory Model built around the concepts of product differentiation and pure competition carries severe limitations when applied to the prediction of the "fair market value" of state school grazing land leases in Montana.

Second, the research and statistical methodologies employed in the six cases of the report have serious limitations as to their appropriateness. Any and all conclusions drawn, therefore, are highly suspect as to their validity and reliability.

Third, the application of limited data samples to support general conclusions with respect to the "fair market value" of state school grazing land leases in Montana is of questionable merit.

Fourth, the Duffield Reports do not adequately address the all-important question of the economic comparability of private and public grazing lands and lease rates in the west. Most, if not all, recent studies of the grazing fee issue beg the question of comparability.

Decision-makers entrusted with solving important public policy questions must recognize that the conclusions drawn by analysts are generally based upon assumptions, theories, models, opinions, values, and facts.

In the case at hand we strongly recommend a detailed review of the methodologies, the factual underpinnings, and conclusions drawn by Professor Duffield, et al., before major adjustments are made in grazing lease prices on state school trust lands in Montana.

Respectfully submitted,

Gerhard N. Rostvold
Professor
Economics

Thomas J. Dudley
Professor
Quantitative Methods

March 15, 1993

EXHIBIT 4
DATE 4-7-93
SB 424

An Preliminary Evaluation
prepared by
Terry L. Anderson and Myles Watts
Professors of Agricultural Economics and Economics
Montana State University[1]
of an
Economic Analysis of the Values
of Surface Uses of State Lands[2]

I. Introduction

The pricing of services from governmental lands at both the state and federal levels is controversial because governmental agencies that control these lands are not subject to the same market forces as the private sector. Private land owners presumably maximize their wealth by getting the most value of their assets. Governmental land managers, on the other hand, are subject to political pressures from a variety of special interest groups who would like to pay less than the resource is actually worth. Because the political land managers do not directly benefit from maximizing asset values and because competitive bidding does not exist for all public resources, there is reason to expect that state and federal governments will not obtain full value from resources under their control.

Unlike most governmental lands that are managed for multiple uses, school trust lands were set aside to generate revenues for public education. Therefore a failure to maximize the value of these lands constitutes a violation of the trust responsibility of the state. Collecting less than lands are worth clearly reduces revenues for schools. Less obvious but just as important is the fact that charging more than uses are worth can leave lands idle and also reduce revenues. For these

reasons it is crucial that the Montana Department of State Lands (DSL) carefully consider its land pricing policy.

It should be noted at the outset that this is a preliminary evaluation. We have only seen the final report prepared by Duffield and Anderson and have not yet obtained the data summarized in that report. Moreover, due to short notice, we have not had sufficient time to fully evaluate all aspects of the Duffield-Anderson Report.

II. Determinants of Grazing Fees

Determining the "fair market value" of grazing leases is complicated by the fact that lands are of different quality and that the lessor and lessee contribute different inputs to the production process. Generally we would expect the lease price received by the lessor to be positively related to livestock prices, alternative forage costs, and the value of lessor-provided inputs (e.g. fencing, water development, and weed control) and negatively related to length of the lease and lack of access control by the lessee.

The D-A Report attempts to gather information on private lease prices and compare them to state land lease prices. Given that lease prices depend on a number of variables, it is necessary to control for these in any comparison. The D-A Report makes a number of comparisons, but fails to adequately control for the many variables that could explain differences in lease prices within the private sector or between the private and public sectors. In some cases the D-A Report simply compares lease prices on private and public lands with leases greater than five years, no fence maintenance services, and dryland. In other cases the D-A Report compares

state land lease prices across states. In our opinion neither of these approaches has much credibility because neither adequately controls for important variables.

The best method of controlling for the many variables that affect lease prices used in the D-A Report is the "hedonic pricing model." This model attempts to estimate a statistical relationship between private lease prices and the variables mentioned above. The "hedonic pricing" method they use has been criticized in the economics literature because it fails to sufficiently distinguish between demand and supply variables that enter into a final determination of a market price. These criticisms aside, in order for a hedonic pricing model to be a useful policy tool, it must be a good predictor. Their "complete model" (see Table 4-17, 33) reports an "adjusted R^{2}" of 0.261. This means that only 26% of the variance in lease prices is explained by the variables they use, and raises the question of what accounts for the other 74% of the variance. In other words, their model does not do a good job of explaining what determines private lease prices and therefore cannot do an adequate job of predicting what state lease prices should be.

III. Evaluation of the Hedonic Model

The main reason that the D-A Report fails to explain variances in private lease prices is that the data used do not adequately control for the many variables that influence leases. For example, to capture the impact that landowner provided inputs might have on lease prices, the D-A survey asked whether the landowner contributed to the costs of fencing maintenance, weed control, and water development. I did not ask how much the lessor contributed to fence maintenance and water development,

but it did ask how much the tenant and landowner contributed to the costs of weed control. The data on noxious weed control, however, were not used in the statistical analysis, and the D-A Report does not explain why.

To understand the impacts of not including the costs of lessor-lessee contribution, suppose that the lessor provides for all fence maintenance and this is worth $2 per AUM to the lessee. All else equal, the lessee would be willing to pay $2 more for this lease. On the other hand, if the lessor contributes only $0.05 for fence maintenance, the lease would only pay an additional $0.05. In the D-A analysis both of these would be reported as a lessor contribution, but there is no way to differentiate between the two. Therefore it is inappropriate to use this hedonic price model estimated from private lease data to predict what state grazing fees should be.

It is important to note that the noxious weed variable is removed from their "reduced model" because it is not found to be significant. Such removal, however, is inappropriate in a predictive model where the variable is expected to have an impact. Clearly a lessee would prefer a lease without a weed problem particularly if the lessee must pay for weed control as the is the case with state lands. Moreover, the usual statistical test for determining whether a variable is significant is based on the probability that the coefficient on the variable is zero. Using this standard approach, the probability the coefficient on noxious weeds is zero is about 17% and the probability it is not zero is 83%. The noxious weed variable should not be omitted from the model.

Even though control variables for fence maintenance and water development

are found to be significant, the use of the "dummy variable" technique is inappropriate for predictive purposes. The D-A Report enters a 1 if the landowner participates in the costs and 0 if not. The appropriate statistical measure would be the degree of participation. Therefore it is not surprising that the D-A Report can not adequately predict private lease prices.

Another problem with the D-A method of accounting for fencing contributions is that they only ask if the landowner participated in maintenance costs; they do not determine whether the landowner made the initial investment. This becomes particularly important on state leases where there are not fences. On private leases it is typical for the landowner to provide the initial cost of the fencing because it is permanently attached to the land. However, on state lands, the lessee is responsible for fence construction which would reduce the value of a state grazing lease, all else equal.

The D-A Report does not control for access which is likely to be an important determinant of the grazing fee. We can infer this from the amount of effort agricultural interests were willing to put into their fight to keep recreationists off state lands leased for agricultural purposes. Moreover, D-A find that lessees were "willing to pay" as much as $1.13 more for private leases without public access. If state lands have public access, at least this amount must be subtracted from the "fair market value." Such an adjustment is not made by D-A and is not included in their model.

IV. Cattle Prices and Grazing Fees

The D-A Report is critical of basing grazing fees on cattle prices. This criticism

is based on their regression analysis reported in Table 4-45 (57) which shows that 77% of the variance in private lease prices can be explained by beef prices between 1969 and 1991, but that only 10% can be explained between 1980 and 1991. One possible explanation for the big difference between the two is the small sample (12) for the latter period. Given that beef prices explain more variance in the long term than does the hedonic model produced by D-A, there is reason to believe that it may be a better predictor. Data are available to do a more sophisticate statistical analysis of the relationship between beef prices, and grazing fees and preliminary results show this is a promising approach.

V. Competitive Bidding

The D-A Report suggests that a major reason for lower grazing fees on state lands is the lack of competitive bidding. They report survey results that many ranchers do not want to bid against their neighbors, concluding that this effectively provides sufficient collusion to depress grazing fees. On the other hand, their survey results show that 22% to 36% of those surveyed are willing to bid against their neighbors, yet only 8% of the leases have more than one bid. These statistics appear inconsistent. If so many are willing to bid and if grazing fees on state lands are so far below the fair market value why aren't there more bids?

An explanation for the lack of more than one bid on 8% of the state lands is that these leases are not worth significantly more than the minimum of $4.17. If there are some lands where the grazing is worth far more than $4.17, we would expect more competition for them. The fact that the average competitive bid is $8.34 (40) may

indicate that some lands are worth more. For example, if state land is near an urban area, the forage for "hobby farmers" may be worth much more than it is for the typical Montana cattle rancher. In short, the fact that only 8% of state lands receive only one bid tells us little about whether tacit collusion is holding down state grazing fees.

VI. Comparison with Other States

The D-A Report compares Montana state land grazing fees to other states and concludes that "Montana is toward the lower end of the scale in terms of the ratio of state grazing lease rates as a percentage of market value." Table 1-12 reveals that 8 of the 14 other states have ratios near or below Montana's; only 6 other states have ratios higher than Montana's. No statistical analysis is provided by D-A.

To make comparison with other states valid, it would be necessary to control for the same variable discussed above. Do other states provide or share in improvements; are other states less urban; do other states have public access; how do other states deal with drought conditions? Until question such as these are addressed, comparison with other states is of little value in predicting what Montana's grazing fee should be.

VII. Conclusion

It is important that Montana maximize the value of its state lands especially to the extent that these lands were specifically set aside to support public education. The problem is determining what is the value maximizing price to charge for various uses. If the state decides to raise grazing fees significantly, it may discover unaticipated impacts. For example, under current practices there is little or no monitoring of leases.

If fees are increased to disipate profits from grazing, the lessee will have more incentive to overstock. Not only will this reduce long term productivity of the range, it will ultimately reduce the revenues from leasing. This scenerio would require that the state increase monitoring expenditures thus offsetting potential revenue gains.

It is wise for the DSL to study this issue in depth, but the D-A Report does not provide an adequate basis for changing the state law regarding the grazing fees. The statistical analysis does not predict very well what factors determine private grazing fees and is not adequate to predict what state grazing fees should be. The D-A Report does present evidence that suggests that state grazing fees may be below fair market value, but additional statistical analysis is necessary to determine what that fair market value is. Before state law is changed in a way that can significantly disrupt an important sector in the state's economy and potentially disrupt revenues and expenditures associated with grazing, more careful analysis should be performed.

1. The ideas expressed in this evaluation are those of the authors and not necessarily those of Montana State University.

2. The report under evaluation here was done for the Department of State Lands by John Duffield and Bruce Anderson, *Economic Analysis of the Values of Surface Uses of State Lands*, Bioeconomics, Inc., Missoula, MT, February 1993. This evaluation covers on "Task 3, Fair Market Value for Grazing Leases." Hereafter this report is referred to as the D-A Report.

EXHIBIT 5
DATE 4-7-93
SB 424

TIM TANBERG
PRESIDENT MONT. ST. LEASEHOLDERS ASSN.
BOX 136 SEELEY LAKE 59868

Mr Chrman, Comittee members I am TT etc.

I have come here today as a cabinsite leaseholder, and as a representative of several hundred cabinsite homesite leaseholders throughout the state, to urge you to kill SB 424.

The language of this bill is confusing at best. The intent of the bill is to generate more funds for the school trust, but, in all likelyhood will complicate the issues further, leave aimless directives for the DSL to follow, increase the administrative ~~burden~~ and top. burden on the general fund and damage the program to the point where more revenue will be lost in the long term, than is gained, while we concentrate on the immediate increase.

This legislation was introduced in direct response to the Duffield study. A study that we maintain is inaccurate, misweighted, narrow minded and conviently ignores more facts and elements of the lease program, than it took time or intrest enough in to study. Mr Duffield ~~conducted~~ TARGETED fewer than 3% of cabinsite leaseholders and contacted more in his study.

Every element, of the Mont. population, is being asked to sacrifice and contribute more to our society. The Universities, health programs, social programs, the school system, and virtually every state agency, bureau and dept. are facing reduced budgets. It seems ironic that taxpayers are expected to foot a bill of $250,000.00 for a study, that delivered little more than hot air, and a great deal of controversy.

Mr. Duffield come to the conclusion that you can get more from the lease program, while handily ignoring the leaseholders contribution, to the development of these leased lands, and to the state and local economies. As a result of this efforts, these leaseholders are directly responsible for much of the value that these lease properties hold today.

Mr. Duffield never mentions that this taxpayer supported program, was and is, intended to be maintained for the direct benefit of the state of Mont, and its citizens.

EXHIBIT #5
DATE 4-7-93
SB-424

5

There is little or no emphasis on the antiquated system that is used to administer these leases. There is no mention of the failure by the DSL to maintain a program of timely and up-to-date lease increases, over the years, that would accurately reflect the constantly changing cost of living or inflation rates. There is no mention of the system where lease fees were changed in 3 to 5 to 10 year periods where fees erratically increased by 100 to 300 ~~to~~ 500% up to thousands of %'s. There is no mention in Mr Duffields study about the negative impact on the cabinsite lease program, of the use of questionable appraisal methods, performed in a haphazard manner and the manipulation of figures to produce highly inflated property values.

If you buy into Mr. Duffields conclusions that all you have to do, is neatly package the state of Mont., for sale to big money interests, where every lake, river and stream has a road fee attached to it, where every recreation opportunity has a price tag on it, where every game animal has a bar code on

All you have to do to achieve his goal, is to sweep the middle class out of the way, and SB424 is the first step. If we treat Mont. as a commodity, that is for sale in a convenience store, we need to consider where we can restock the shelves with in the future.

It needs to be noted that the cabinsite lease program is not a market place, where many uncontroled elements come together to create the conditions of a market. Rather this is a Monopoly that is beyond the influences of, in this case, the real estate market, where property values are assigned, and rates of increase are dictated.

We feel, that for the benefit of the system, in the case of the cabinsite lease program that the value of the use of the surface area of a cabinsite lease, be determined, and a lease rate be established with a caps on increase determined. We feel that the cabinsit home sites need to be dealt with as a seperate entity, because of the unique situation where valuable assets (in this case our homes) are permanently fixed to lease property. We need to pursue goals,

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DATE 4-2-93
SB-424

where the state of Mont., the school trust, and the rights and property of leaseholders, are respected and considered, in an atmosphere of cooperation and mutual benefit.

These cabinsites comprise less than 1/2 of 1% of the 5.2 million acres of school trust lands in the state. The receipts from the cabinsite leases are equal to 3.3% of receipts from agricultural leases, 6.7% as compared to grazing lease receipts and comprise 2.1% of the total receipts of the school trust surface use program. However if you will notice on page 1 of SB424 the cabinsite leases are considered first and foremost when increases are being sought, while the rights and contributions of cabinsite leaseholders are secondary to any other consideration.

I receive phone calls on a daily basis from leaseholders who are concerned about the future of the program. These calls vary from mild curiosity & disappointment to frustration and outright rage over a system that many feel is inadequate, unresponsive, and discriminat The questions range from what legislation do we propose, to when do we hire a lawye

The recreational value of these leases is greatly overstated. While some are waterfront properties and have a good deal of recreational appeal. Many are full time residences, some are weekend retreats, yet all, are represented as high value and hotly sought after gems with unlimited recreational appeal. This is not an accurate portrayal.

The level of frustration among cabinsite leaseholders is very high. The language of SB42 is vague, confusing, and could be the straw that breaks the program's back. There are too many issues that are not covered, and there are many parts of this bill that will guarantee that the lease program will slip into further disarray and total inefficiency.

If SB424 becomes law, the prospect of loosing a large number of participants is guaranteed. Many leases will be dropped and never ~~re~~-leased again. The likelyhood of legal action to protect leaseholder rights will become a probability, and everyone will loose.

For these reasons, and many more, we urge you, to remove the cabinsites from this bill or better yet just kill this bill. Thankyou

EXHIBIT 6
DATE 4-7-93
SB 424

TESTIMONY BY SAM HOFMAN
OPPOSING SB 424.
Opposing H.B. 665

Lessees of State land now pay an initial fee of $25.00 for a Land Use License. the cost of the license is $50 per year but paid in advance at the time the lease is renewed. ($500.) the purpose is for grain bin storage and buildings. On the private sector, lessees usually include the use of all buildings and improvem

On the Private sector, landowners pay for one-third of the fertilizer expenses on crop share agreements. On addition, landowners also pay a share of the weed control costs, usually one third. On my agreement with my sister I pay all the weed control costs in exchange for grazing benefits. If weed control costs were deducted from my sisters crop share, her return per acre would be consistantly less than the States share even under the 25% rental agreement we now have.

Most farmers in my area do not run cattle and therefore are not able to utilize the grazing on their State leases that they are required to pay for.

Recreation Use Irene — Price of people out

GRAZING FEE COMPARISONS

Following figures are 5 year averages.

Brashears	½ section	$95. per year
DeBoer	½ section	95. " "
Bronnum	1 section	220. " "

State of Mont 1 section 90 AUM at $4.05 = $364.50

Fiscal note increase to $7.60 per AUM = $684.00

Under new formula in this bill $525.

Lease private summer pasture for $10.

EXHIBIT #6
DATE 4-7-93
SB-424

Wheat

1992 84.04 bu per acre at $3.05 per bu = $256.26 Return per acre

	1/4	1/3	29%	Sister Place 1/3 crop share
State share	64.07	85.42	74.32	Her share 85.42 less 1/3 pst 13.58 = 71.8
Renter share	192.19	170.84	181.94	My share 170.84
less Fertilizer	40.75	40.75	40.75	less 2/3 pst 27.17
Renter Net	151.44	130.09	141.19	Renter net 143.67

1991 36.75 bu per acre at $2.83 per bu = $104.18 Return per acre

	1/4	1/3	29%	Sister Place 1/3 crop share
State share	26.04	34.73	30.21	Her share 34.73 less 1/3 pst $12.02 = 22.7
My share	78.14	69.45	73.97	My share 69.45
less Fertilizer	36.05	36.05	36.05	less 2/3 pst. 24.03
Renter net	42.09	33.40	37.92	Renter net 45.42

1990 38.12 bu per acre at $2.48 per bu = $94.64 return per acre

	1/4	1/3	29%	Sister's Place 1/3 crop share
State share	23.66	31.55	27.45	Her share 31.55 less 1/3 pst $14.13 = $17.4
My share	70.98	63.09	67.19	My share 63.09
less Fert.	42.39	42.39	42.39	less 2/3 pst. 28.26
Renter net	28.59	20.70	24.80	Renter Net 34.83

1989 44.15 bu per acre at $3.82 per bu = 168.58 Return per acre

	1/4	1/3	29%	Sister's Place 1/3 crop share
State share	42.14	56.19	48.89	Her share 56.19 less 1/3 Fert. 15.57 = $40.
My share	126.44	112.39	119.69	My share 112.39
less Fertilizer	46.70	46.70	46.70	less 2/3 pst 31.13
Renter Net	79.74	65.69	72.99	Renter Net 81.26

Wheat

1988 44.48 bu per acre at $3.55 per bu = 158.14 return per acre

	1/4	1/3	29%	Sister's Place 1/3 crop share
State share	39.53	52.71	45.86	Her share 52.71 less 1/3 fert 13.99 = 38.72
My share	118.61	105.43	112.28	My share 105.43
less Fertilizer	41.96	41.96	41.96	less 2/3 Fert. 27.97
Renter net	76.65	63.47	70.32	Renter net 77.46

BARLEY

1992 86.62 bu per acre at $1.89 per bu = $163.62 return per acre.

	1/4	1/3	29.%	Sister's place 1/3 crop share
State share	40.90	54.54	47.45	Her share 54.54 less 1/3 Fert. 9.50 = 45.04
My share	122.72	109.08	116.17	My share 109.08
less Fertilizer	28.49	28.49	28.49	less 2/3 Fert. 18.99
Renter net	94.23	80.59	87.68	Renter net 90.09

1991 38.5 bu per acre at $1.54 per bu = 59.14 return per acre

	1/4	1/3	29%	Sister's Place 1/3 crop share
State share	14.78	19.71	17.15	Her share 19.71 less 1/3 fert 12.73 = 6.98
My share	44.36	39.43	41.99	My share 39.43
less Fertilizer	38.18	38.18	38.18	less 2/3 Fert. 25.45
Renter net	6.18	1.25	3.81	Renter net 13.98

LANDOWNER SHARES

CROP SHARE COMPARISONS

WHEAT

	State Law ¼	State Law ⅓	State Law 29% & crop share & fertilizer	SISTENS PLAC
1992	64.07	85.42	74.31	71.84
1991	26.04	34.73	30.21	22.71
1990	23.66	31.55	27.45	17.42
1989	42.14	56.19	48.89	40.62
1988	39.53	52.71	45.86	38.72
AVERAGE	39.09	52.12	45.34	38.26
		13.86 more	7.08 more	.83 less

BARLEY

	¼	⅓	29%	
1992	40.90	54.54	47.45	45.04
1991	14.78	19.71	17.15	6.98
1990	19.21	25.61	22.28	14.68
1989	20.40	27.22	23.68	15.67
1988	28.54	38.05	33.10	28.87
AVERAGE	24.77	33.03	28.73	22.25
		10.78 more	6.48 more	2.52 less

EXHIBIT #6
DATE 4-7-93
SB-434

LANDOWNER SHARES

CROP SHARE COMPARISONS

	State Share 25%	State Share 30%	SISTER'S PLAN 1/3 crop less 3 Fert.
WHEAT			
1982	53.04	63.65	58.41
1981	58.74	70.48	66.29
1979	32.76	39.31	36.17
AVERAGE	# 48.18	57.81 4.19 more	53.62 5.44 more
BARLEY			
1982	26.22	31.47	21.32
1981	35.48	42.58	35.37
1979	27.74	33.29	29.46
AVERGE	29.81	35.78 7.07 more	28.71 1.10 less

RENTER NET SHARES

7

CROP SHARE COMPARISONS

	WHEAT State 1/4	State 1/3	29%	SISTERS PLACE 1/3 Schnebly 1/3 Farley
1992	151.44	130.09	141.19	143.67
1991	42.09	33.40	37.92	45.42
1990	28.59	20.70	24.80	34.83
1989	79.74	65.69	72.99	81.26
1988	76.65	63.47	70.32	77.46
AVERAGE	75.70	62.67 13.85 less	69.44 7.08 less	76.52 .82 more
	BARLEY			
1992	94.23	80.59	87.68	90.09
1991	6.18	1.25	3.81	13.98
1990	28.84	18.44	21.77	29.37
1989	26.61	19.80	23.34	31.35
1988	58.08	48.57	53.52	57.75
AVERAGE	42.79	33.73 10.78 less	38.02 6.49 less	44.51 1.72 more

Keep in mind these figures deal only with fertilizer costs

therefore the system is working
there used to be land idle - no lessees

Two primary reasons
Different reasons
Land Board
no gate

Suggest that you table this bill

EXHIBIT 1
DATE 4-7-93
SB 424

Honorable Chairman, Vice Chairman, and other Representative Members of the House Taxation Committee.

We, Merwin & Carol M. Works, are farm co-owners/operators and lifetime residents of Chouteau County, MT, speaking in opposition to Senate Bill #424.

This Bill does not clearly state who or how many members would comprise the State Land Board Advisory Council. They must be (quote)"broadly representative to the users and beneficiaries of the State Trust Lands."(unquote) This is a pretty general statement.

Also in Sec.12, the Advisory Council shall make recommendations to the State Land Board, but that doesn't mean they have to concur. Based on past experience with a State Land Board, they could still do as they see fit, no matter how well researched, how accurate, or how much sense those recommendations make.

In Sec. 11, (quote) "the procedure should establish provisions for notice, public comment, public hearing and appeal." (unquote) (Note that word should) Again, it is not clear. Would these notices be sent to all state lease/license holders? Published inall county newspapers, only in a Helena paper, or how would notice be given? How long before a scheduled meeting will notice occur?

How much are these members to be paid in wages, in allowed expenses, and for mileage? How much are the notices going to cost? What about extra secretaries to take care of additional paper work?

We honestly feel this bill is not in the best interest of the State as there are too many unknown factors and it puts too much power in too few hands.

We also oppose the proposed lease rate increases found in the bills fiscal note No. 6. These increases will have a rippling or snoball effect of raising private lease rents as well. All landowners will quickly follow in raising their rents to equal or surpass those which the state imposes. The average lease rate in our area is about 28%. But, most rates over 25% include anexpense share of the landowner on fertilizer, chemicals, seed etc. In other words the landowner assumes a part of the production cost risk, in order to receive a higher share of the crop production. The State does not do this.

The State & National Legislatures are trying to raise taxes on fuel, fertilizer, chemicals, property, income, a sales tax, and etc.. All farm expenses are escallating at an astounding rate. But where is the price of grain? About where it was 25 years ago. In agriculture we can not, I repeat can not pass on those increased expenses when we sell our products as most other businesses can. Agriculture is at the mercy of the buyer. We can not set our selling price to reflect the incresed cost of production. A lease rental increase at this time is definitely not in the best interest of Montanas #1 industry, Agriculture.

If a higher lease rate occurs, farmers will have to cut production costs. That means less or no fertilizer, less tillage, less weed control, resulting in poorer crops, lower quality grain, and less bushels. It is not in the best interest of the school trust to encourage its lessees to use management techniques which would be to the detriment of the land in the long run. It could also result in a high turnover of lessees who would not manage the land in order to insure the long term productivity and sustained yield to the school trust.

The state would have to hire more people to monitor state lands. This increased cost plus those of the Advisory Council and Public Notice, plus the probable deteriorating quality of the land and possibàe dishonest crop shares paid, could in fact mean less funds received by the State Trust. We have talked with over 20 couples, with and without state land leases, and all were against this bill and lease rent increase.

No, this Bill is not in the best interest of Montana. Do not put this hardship on your lessees and do not give this power to the few members of the State Land Board. Keep it in your hands - those of the Legislature.

Thank you.

Carol M. Works

Merwin Works

Box 712
Big Sandy, MT 59520

EXHIBIT 14
DATE 4-7-93
SB 424

Amendments to Senate Bill No. 424
Third Reading Copy

For the Committee on Taxation

Prepared by Greg Petesch
April 5, 1993

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"

2. Page 1, line 23.
Following: "shall"
Insert: "["

3. Page 1, line 24.
Following: ","
Insert: "]"

4. Page 3, line 7.
Following: "must"
Insert: "["

5. Page 3, line 9.
Following: ","
Insert: "]"

6. Page 6, line 22.
Following: "board"
Insert: "["

7. Page 6, line 24.
Following: ","
Insert: "]"

8. Page 10, line 23.
Following: "must"
Insert: "["

9. Page 10, line 25.
Following: ","
Insert: "]"

10. Page 11, line 2.
Following: "~~77-6-507~~"
Insert: "as provided in 77-6-507"

11. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

12. Page 12, line 8.
Following: line 7
Insert: "NEW SECTION. **Section 11. Setting of rates or fees.** (1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."
Renumber: subsequent sections

13. Page 12, line 23.
Strike: "[SECTION 12] IS"
Insert: "[Sections 11 and 12] are"

14. Page 12, line 25.
Strike: "SECTION"
Insert: "sections 11 and"

15. Page 13, line 12.
Following: line 11
Insert: "
NEW SECTION. **Section 15. Termination.** [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."
Renumber: subsequent section

EXHIBIT 15
DATE 4-7-93
SB 424

HOUSE OF REPRESENTATIVES

TAXATION **COMMITTEE**

ROLL CALL VOTE

DATE 4/7/93 **BILL NO.** SB 424 **NUMBER** _____

MOTION: By Rep. Harper that SB 424 Be Concurred In As Amended

NAME	AYE	NO
REP. FOSTER		✓
REP. HARRINGTON	✓	
REP. ANDERSON		✓
REP. BOHLINGER	✓	
REP. DOLEZAL	✓	
REP. DRISCOLL	✓	
REP. ELLIOTT	✓	
REP. FELAND		✓
REP. HANSON		✓
REP. HARPER	✓	
REP. HIBBARD	✓	
REP. KELLER	✓	
REP. McCAFFREE	✓	
REP. McCARTHY	✓	
REP. NELSON	✓	
REP. ORR		✓
REP. RANEY	✓	
REP. REAM	✓	
REP. TUNBY	✓	
REP. GILBERT		✓
	14	6

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. Senate - 424

DATE 4-7-93 SPONSOR(S) Blaylock

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MERWIN WORKS ABig SaNDY MT			X
CaROl M. WORKS Big Sandy, MT 59520			X
Sam Hofman Manhattan, Mont	APA & Self		X
Richard L Miller	State Cabin site leaseholder	~	X
Dennis Casey	self	X	
Erik Olson	MSA	~	
Garth Jacobson	Sec. at State Office	~	
Dan Thompson	SELF		~
Geo Schunk	AG	V	
George Paul	Farmers Union	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.